

KAUA'I PLANNING COMMISSION
REGULAR MEETING
January 13, 2026

The regular meeting of the Planning Commission of the County of Kaua'i was called to order by Chair Francis DeGracia at 9:01 a.m. - Webcast Link: <https://www.kauai.gov/Webcast-Meetings>

The following Commissioners were present:

Mr. Gerald Ako
Ms. Helen Cox
Mr. Francis DeGracia
Ms. Glenda Nogami Streufert
Mr. Jerry Ornellas
Ms. Lori Otsuka

Excused or Absent

The following staff members were present: Planning Department - Director Ka'aina Hull; Staff Planner Romio Idica, Kenny Estes, Dale Cua, Marisa Valenciano, Alisha Summers, Kristen Romuar-Cabico; Staff Services Leila Kim; Planning Secretary Shanlee Jimenez; Office of the County Attorney - Deputy County Attorney Laura Barzilai, Office of Boards and Commissions - Support Clerk Lisa Oyama.

Discussion of the meeting, in effect, ensued:

CALL TO ORDER

Chair Francis DeGracia: The time is 9:01. I'd like to call to order the Planning Commission meeting for Tuesday, January 13, 2026.

Planning Director Ka'aina Hull: Good morning, Chair, members of the Commission. There's a small order of...items out of order on the agenda. It should be roll call ahead of elections of officers. So, I'll do roll call Chair.

ROLL CALL

Chair DeGracia: Okay, roll call.

Mr. Hull: Commissioner Ako?

Commissioner Gerald Ako: Here.

Mr. Hull: Commissioner Cox?

Commissioner Helen Cox: Here.

Mr. Hull: Commissioner Ornellas?

Commissioner Jerry Ornellas: Here.

Mr. Hull: Commissioner Otsuka?

Commissioner Lori Otsuka: Here.

Mr. Hull: Commissioner Streufert?

Commissioner Glenda Nogami Streufert: Here.

Mr. Hull: Chair DeGracia?

Chair DeGracia: Here.

Mr. Hull: You have a quorum, Mr. Chair. 6:0.

Chair DeGracia: Thank you.

SELECTION OF 2026 CHAIRPERSON AND VICE CHAIRPERSON APPOINTMENT OF 2026 SUBDIVISION COMMITTEE CHAIRPERSON AND VICE CHAIRPERSON

Mr. Hull: Next, we have the Selection of the 2026 Chairperson and Vice Chairperson, as well as the appointment of 2026 Subdivision Committee Chairperson and Vice Chairperson.

Chair DeGracia: Okay. Thank you. Commissioners, nominations are now in order for the position of Chair of the Planning Commission. Nominations for Chair do not require a second. Are there any nominations?

Ms. Otsuka: Yes. I would like to nominate Commissioner Gerald Ako for the position of Planning Commission Chair.

Chair DeGracia: Okay. Are there any other nominations? Okay. If not, may I have a motion to close nominations?

Ms. Streufert: I move to close nominations.

Chair DeGracia: Is there a second?

Ms. Cox: Second.

Chair DeGracia: Okay, we'll take a voice vote. All in favor, say aye to close the nominations. Aye (unanimous voice vote). Okay. Any opposed? Hearing none, motion carries. 6:0. Nominations are now closed. Commissioner Gerald Ako has been nominated to fill the position of Planning Commission Chair. May I please have a roll call on the nomination of Commissioner Ako to be elected as Chair?

Mr. Hull: Roll call, Mr. Chair. Commissioner Ako?

Mr. Ako: Aye.

Mr. Hull: Commissioner Cox?

Ms. Cox: Aye.

Mr. Hull: Commissioner Ornellas?

Mr. Ornellas: Aye.

Mr. Hull: Commissioner Otsuka?

Ms. Otsuka: Aye.

Mr. Hull: Commissioner Streufert?

Ms. Streufert: Aye.

Mr. Hull: Chair DeGracia?

Chair DeGracia: Aye.

Mr. Hull: Motion passes, Mr. Chair. 6:0.

Chair DeGracia: Thank you. The majority of members have voted in favor of Commissioner Ako, and he is duly elected to serve as Chair. Congratulations. With that, we will take a short recess for us to swap chairs.

Deputy County Attorney Laura Barzilai: In the interim, is there anyone who would like to testify on this agenda item on the election of officers? Hearing none.

Newly Elected Chair, Gerald Ako: Wow, the view is really different from over here. But seeing that we are now taking nominations for the position of the Planning Commission Vice Chair. Nominations are now open.

Ms. Otsuka: I would like to nominate Commissioner Helen Cox for the position of Planning Commission Vice Chair. Helen Cox has been nominated. Are there any other nominations? If not, if we can have, and I assume Helen is willing, ready and willing. With that, if we can have a motion to close nominations.

Ms. Streufert: I move to close nominations.

Ms. Cox/Mr. Ornellas: Second.

Chair Ako: Okay, we can take a voice vote on this. All those in favor of closing the nomination for Vice Chair of the Planning Commission say aye. Aye (unanimous voice vote). All those opposed. Thank you very much, Helen Cox. That was for the nomination.

Ms. Barzilai: Yes, nominations are closed.

Chair Ako: Now we're ready for a motion to for the election of the Vice Chair. So, Helen Cox has been nominated for the position of Vice Chair. Let's see. Okay. Can we have a motion?

Ms. Streufert: I move to elect Helen Cox as Vice Chair of the Planning Commission.

Mr. DeGracia: Second.

Chair Ako: Okay, you have been nominated and seconded. All those in favor, say aye. Aye (unanimous voice vote). All those opposed. Okay, so now with that, we shall take a roll call vote.

Mr. Hull: Roll call, Mr. Chair. Commissioner Cox?

Ms. Cox: Aye.

Mr. Hull: Commissioner DeGracia?

Mr. DeGracia: Aye.

Mr. Hull: Commissioner Ornellas?

Mr. Ornellas: Aye.

Mr. Hull: Commissioner Otsuka?

Ms. Otsuka: Aye.

Mr. Hull: Commissioner Streufert?

Ms. Streufert: Aye.

Mr. Hull: Chair Ako?

Chair Ako: Aye.

Mr. Hull: Motion passes, Mr. Chair. 6:0.

Chair Ako: Congratulations, Ms. Cox.

Ms. Cox: Thank you.

Chair Ako: Thank you very much. Now, with that, I would like to appoint for our Subdivision Committee. I'd like to appoint Commissioner Glenda Nogami Streufert as our Chair. Helen Cox, Commissioner Cox as our Vice Chair for our Subdivision and Commissioner Francis DeGracia for the Subdivision Committee, yeah. So, with that, do we have a motion to approve the appointment?

Ms. Streufert: I move to approve.

Mr. DeGracia: Second.

Chair Ako: Motion has been moved and seconded. Can we have a roll call vote, Mr. Clerk?

Mr. Hull: Roll call, Mr. Chair. Commissioner Cox?

Ms. Cox: Aye.

Mr. Hull: Commissioner DeGracia?

Mr. DeGracia: Aye.

Mr. Hull: Commissioner Ornellas?

Mr. Ornellas: Aye.

Mr. Hull: Commissioner Otsuka?

Ms. Otsuka: Aye.

Mr. Hull: Commissioner Streufert?

Ms. Streufert: Aye.

Mr. Hull: Chair Ako?

Chair Ako: Aye.

Mr. Hull: Motion passes, Mr. Chair. 6:0.

Chair Ako: Okay.

APPROVAL OF AGENDA

Mr. Hull: Moving on with the rest of the agenda, Chair. Next on the agenda we have Approval of the Agenda. The Department would recommend making three modifications. One, that Item K.2. directly proceed G, as well as, that General Business Matters be listed as its own letter, should be letter J., and then the corresponding letters would adjust and that each of the Unfinished Business Hearing Item, Unfinished and New Business Items directly follow their agency hearings.

Mr. DeGracia: I move to approve the amendments as proposed by the clerk for the agenda.

Mr. Ornellas: Second.

Chair Ako: The motion is seconded. Any concerns, comments about changing the agenda? If not, if we can have just a roll call vote on this? Yeah. So, all those in favor say aye. Aye (unanimous voice vote). Those opposed. Okay. The amended agenda has been approved. 6:0.

RECEIPT OF ITEMS FOR THE RECORD

Mr. Hull: Next, we have listed the Receipt of Items for Record, nothing on record, but the department did receive a number of testimonies, apologies. Skipped one.

MINUTES OF THE MEETING(S) OF THE PLANNING COMMISSION

Mr. Hull: Agenda Item E. Minutes for the Meeting of the Planning Commission for November 10th, 2025.

Chair Ako: We all have the minutes of the November 10th, 2025 minutes in front of us. Any questions, comments, amendments? If not...

Ms. Barzilai: Motion to approve, Chair. You need a motion to approve.

Chair Ako: Yeah. If not, if we can have a motion to approve.

Ms. Otsuka: Motion to approve minutes of the meeting of November 10th, 2025, of the Planning Commission.

Ms. Cox: Second.

Chair Ako: We have a motion. We have a second. Any comments, concerns? If not, yeah, we'll take a voice vote on this. All those in favor say aye. Aye (unanimous voice vote). All those opposed. The minutes has been passed. 6:0.

Mr. Hull: Next. I'm sorry. Going to Receipt of Items for the Record. We have nothing listed. However, a number of communications were submitted to the Planning Department to submit to the Planning Commission after posting of the agenda relating to agenda items. The packet is roughly 40,50 pages. I'm not sure if the Commission would like to take a 10 to 15 minute recess to review the documents or submitted post agenda.

Chair Ako: If we can take a recess to 9:30.

Ms. Barzilai: Okay.

Chair Ako: And we will reconvene, okay.

Mr. Hull: For the audience edification, the department received a number of testimonies after the agenda was posted, which didn't allow for the Commissioners to receive those testimonies prior to this meeting. So, the testimony is roughly, this thick, so they're going to take a 15 to 20 minute recess to review this testimony that was not reviewed by them prior to this meeting. So, we'll be reconvening at 9:30.

Chair Ako: The meeting is in recess.

The Commission went into recess at 9:11 a.m.
The Commission reconvened from recess at 9:31 a.m.

Chair Ako: Okay. I thank you for your patience. Why we have to go through this process? I am not real sure, but you know, I thank you for doing that. And with that, I call the meeting back to order.

COMMITTEE REPORTS

Mr. Hull: Next, on the agenda we have Committee Reports, Subdivision Committee Report. As the former Subdivision Committee Chair, Chair I will defer to you.

Chair Ako: Yeah. So, for the Subdivision Committee, the Subdivision Committee met this morning. We had one application, and the application was to subdivide one property into two separate lots out in, on Ōma'o Road in Kōloa. With that action was taken to approve 3 to 0. And with that that is the subdivision report for this morning.

Mr. DeGracia: I move to approve the Subdivision Report.

Chair Ako: Okay. We have a motion to approve.

Ms. Cox: Second.

Chair Ako: We have a second. Any questions, comments, concerns? If not, we'll take a roll call vote on this.

Mr. Hull: Roll call, Mr. Chair. Commissioner Cox?

Ms. Cox: Aye.

Mr. Hull: Commissioner DeGracia?

Mr. DeGracia: Aye.

Mr. Hull: Commissioner Ornellas?

Mr. Ornellas: Aye.

Mr. Hull: Commissioner Otsuka?

Ms. Otsuka: Aye.

Mr. Hull: Commissioner Streufert?

Ms. Streufert: Aye.

Mr. Hull: Chair Ako?

Chair Ako: Aye.

Mr. Hull: Motion passes, Mr. Chair. 6:0.

UNFINISHED BUSINESS (For Action)

Mr. Hull: Next, we have on the agenda, Item K.2.

CLASS IV ZONING PERMIT (Z-IV-2025-6), USE PERMIT (U-2025-4), and SPECIAL PERMIT (SP- 2025-1) to conduct outdoor commercial events, including but not limited to weddings and public/private gatherings, on a parcel situated along the mauka side of Kaumualii Highway in Kalaheo (formerly Olu Pua Gardens site), situated approximately 0.5 mile west of Kalaheo Town, approximately 3,000 feet mauka of the Halewili Road/Kaumuali'i Highway intersection, further identified as Tax Map Key: (4) 2-4-007:016, containing a land area of 12.285 acres = **OLU PUA GARDENS LLC. [Director's Report Received, 12/24/2024; Hearing Closed, Deferred, 1/14/2025; Deferred, 6/10/2025; Deferred, 8/12/2025; Deferred, 11/10/2025].**

- a. Letter (12/29/2025) from Max W. J. Graham, Jr., Belles Graham LLP withdrawing the application.

Mr. Hull: We don't have any members of the public to testify on this agenda item. Are there any members of the public who would like to testify on this application? Again, this is for Olu Pua Gardens. Anybody want to testify on Olu Pua Gardens agenda item? Seeing none, I'll turn it over to Marisa.

Staff Planner Marisa Valenciano: Good morning, Chair, members of the Commission.

Ms. Valenciano read the Summary, Project Data, Project Description and Use, Additional Findings, Preliminary Evaluation, and Preliminary Conclusion sections of the Director's Report for the record (on file with the Planning Department).

Chair Ako: Is there anybody from...Good morning.

Mr. Max Graham: Good morning.

Chair Ako: Good morning.

Mr. Graham: Chair Ako.

Mr. Hull: You have to push the light. Yep.

Mr. Graham: I'm Max Graham, I am the attorney for Olu Pua Gardens. And we filed the request to withdraw the application. So, at this point we will not be pursuing the tour or events application. But thank you very much for the help. And thank you, Ms. Valenciano, for your reporting and...

Chair Ako: If we have any questions for the applicant. If not, Mr. Graham, thank you very much for coming.

Mr. Graham: All right. Thank you very much.

Mr. Hull: All we're looking for since this is a withdrawal, is a motion to receive.

Ms. Streufert: I move to receive the letter of withdrawal.

Chair Ako: Okay. We have a motion to receive.

Ms. Cox: Second.

Chair Ako: We got a second. Questions, comments? If not, Mr. Clerk, can we have a voice vote?

Mr. Hull: Voice vote is fine.

Chair Ako: Voice vote is fine. All those in favor say aye. Aye (unanimous voice vote). All those opposed. The motion to receive is carried. 6:0.

Mr. Hull: For the next agenda item, I'll turn it over to our counsel.

HEARINGS AND PUBLIC COMMENT

Continued Agency Hearing

Ms. Barzilai: Next item is H.1., Hearings and Public Comment. Continued Agency Hearing.

Special Management Area Use Permit SMA(U)-2020-1, Class IV Zoning Permit Z-IV-2020-3, and Use Permit U-2020-3 for the construction of a farm dwelling unit within Lot 7 of the Kahili Makai Subdivision in Kilauea, involving a parcel situated at the terminus of Kahili Makai Street and immediately adjacent to property identified as 4254 Kahili Makai Street, Tax Map Key: (4)5-2-021:007 (Unit E), and affecting a portion of a larger parcel approx. 27.56 acres in size = **VALERIE M. NIELSON AND DAVID N. KELLS. [Director's Report received, 10/19/2019, Hearing Deferred/Referred to Hearings Officer, 10/22/2019, Hearing Deferred/Hearing Officer's Report & Recommendation Accepted, 10/12/2021].**

1. Supplement #2 to Director's Report pertaining to this matter.
2. Hearing Officer's Report and Recommendation last Order and Recommendations dated August 23, 2021.
3. Findings of Fact, Conclusion of Law of the Kauai County Planning Commission (11/16/2021), Certificate of Service in the matter of Valeria M. Neilson and David N. Kells Application for SMA Use Permit Application (U)2020-1; Class IV-Z-IV-202-3; and Use Permit U-2020-3.
4. Application Revisions (2025) and Supplemental Documents for Revised Application Submitted by David Kells, MD and Valerie Neilson (undated, received 12/12/2025).
5. CS Development LLC and Charles Somers Notice of Continued Intervener Status and Requirement for Continued Agency Hearing; Exhibits 1-3; Certificate of Service.

Ms. Barzilai: Chair, I believe that all the parties are present or represented at this time. You may ask for argument and comments from the parties. Oh, I'm sorry. Is anyone present to testify on this matter? Members of the public and not parties. Nielsen/Kells, members of the public and not parties. Anyone here to testify? Seeing none, Chair you can proceed.

Chair Ako: Okay. Seeing none, I think, on this application here, we've got several issues that we, that need to be addressed here. So, I think at this time, if we can call up the department, the representatives from the department, from the applicant, as well as the Intervenors. So...

Ms. Barzilai: Allison. Yeah, thanks. So, Chair, I think we'll hear from the applicants first.

Chair Ako: Okay. If not, if we can hear from the applicants first. Please proceed. And if you...

Ms. Valerie Nielsen: Good morning. My name is Valerie Nielsen, and my, this is my husband, David Kells, we're the applicants. Thank you for the opportunity to speak to you again today. We've been in front of this committee for the third time. We're here to talk about the revised application and supplemental materials, which were submitted pursuant to commissions, November 16th, 2021, findings and facts, conclusion of law, decision and order, and adopting the hearings officers, August 23rd, 2021 report. Today, we need to address at least four issues, and I hope to present them in the order the Commission will likely need to make a decision on them. The first thing is inappropriate intervenor status. The second was application completeness and application merit and the intervenors request to continue intervenor status and refer back to the hearings officer. So, the intervenor status was granted on October 22nd, 2019. That was our first public hearing based on a certificate of service, certifying service on all parties. It is undisputed at this point that service did not occur as certified. David and I did not receive that certificate of service. We are aware that this, there is no way this Commission would have known that prior to the Commission meeting. The Commission therefore granted intervenor status based on a material mistake of fact. Applicants attempted to object at the first Public Planning Commission meeting as soon as we were aware that the petition to intervene was served. So therefore, we preserve the due process objection and did not waive our service defect. You can tell I'm nervous, I'm sorry. So basically, applicants didn't receive prior service of the petition to intervene and therefore no meaningful opportunity to respond that day. Applicants objected at the first Planning Commission meeting when they became aware of the petition. Because proper service is a prerequisite to intervention, intervenor status was never lawfully perfected and cannot continue. The law does not require the party to object before they receive notice. Once we learned of the petition and raised the issue at the earliest practical opportunity, that is efficient, sufficient. Hawai'i courts repeatedly hold that a party cannot be faulted for failing to object to something, that they never were properly served, and we were never properly served. Charles Somers admitted that it was a secretarial error and we were not serviced. That does not negate the fact that we were never given the opportunity to adequately prepare for that service. Intervenor argues that the applicant spoke at the hearing and were seen flipping through pages. Participation after defect notice does not equal consent. Applicants filed a request to reconsider the petition to intervene and deny intervenor status with the hearings officer at the contested case. The Planning Department joined...filed (inaudible) with the applicant requesting for reversal, which at that time was denied through the hearing officer. When this was brought before the hearings officer, he, his denial, in his denial, he did not adjudicate validity of the service. He did not find the service was proper. He did not cure the defect. The defect still exists

today. Eight years later, the defect still exists. There is now a narrow basis for relief because the applicants lacked prior notice. We objected at the first opportunity that we were aware and this preserved the issue. This Commission can now lawfully conclude the original petition to the innovator was not properly served on the applicant. The applicants objected to, at the first opportunity and the intervenor status was therefore not perfected. There are case law that I have here cited. So, to be fair to everybody, we're not trying to erase the past. The contested case happened, information was gathered, important work was done. But we're requesting today a prospective remedy only, and we're asking to strike the intervenor status and convert it to participant only status going forward. We have prepared a motion, and I hope you all have it, have received it. If the intervenor argues equity, equity supports correcting the error prospectively, not perpetuating status that was granted without proper notice. This Commission has the authority, has the power to correct that today, and that's what we're asking. So, item number two, complete, completeness of the revised application. The legal standard is complete and is not approval. The revised application satisfies KCC 8-3.1.B.3. It satisfies KCC 8-11.5.C through D., and SMA Rules 7.1 and the Commissioners, November 16th, 2021 decision and order. I hope the Planning Department prepared a revised Director's Report based on the information that was filed by application. Our application is over 600 pages long. Who thinks that's crazy? I do. Any remaining disputes are substantive and not procedural. Sorry, the merits of the application as a whole, as merit-based evaluation of this revised Kaua'i planning application, the standard is substantial evidence, not an impact free development. The key question here is, does the application meet the substantive approval criteria? The hearing officer concluded the main application substantially complied with the SMA Rules, the General Plan, CZM Objectives to correct actions now complete, based on a full report of the record. So, what I'm saying is that the original application, per the Director, the hearings officer, met the standard. So, everything that we've given you, in addition too, in the revised application, the supplement just goes on top of that. So, we already met the standard in the main application, the addition, the supplements that were ordered were to appease and to what is the word he used...he needed assurances to assure intervenor that we have met the standard. So, we met the standard in the main application in 2019. We have now exceeded those standards. So, basically the full project is a single farm dwelling, under 2% of the large lot coverage uses an already disturbed area and includes a neutral party Ka Pa'akai Analysis. There are no unresolved SHPD issues. Substantial evidence in the record supports the Commission decision on the merits based on the entire record, and a revised Director's Report. I have a whole list of merits and why/how we comply. I won't bore you with that. So, in conclusion, the record contains substantial evidence supporting approval of the requested permits, subject to reasonable conditions. Denial on this record would present significant appellate risk. Now, the last item, referring back to a hearings officer. The referral back to a hearings officer is discretionary and not mandatory. The Commission adopted the hearings officer's findings and retains full authority to proceed with a decision. When the Commission accepted the hearing's officer's review and recommendations on the contested case ended. A contested case ends when the agency issues its final order, decisions and order. That is, when the Planning Commission adopts, modifies, or rejects the hearing officer's findings and facts, conclusions of law, and issues its own decision. After that point, the contested case is no longer pending, even if the Commission requires supplemental submissions or further hearings. The new referral is required only if formal fact finding is necessary, which is not the case here. Under Kaua'i Planning Commission rules, the hearing officers does not decide the case. This commission decides the case. The hearings offer issued his report and recommendations only for

this Commission to consider. We've now given you the supplemental information that the hearing's officer has requested. Once the Planning Commission acts on the recommendation, the hearing officer's role is complete unless the Commission expressly re-refers the matter and you refer the matter when we have not complied, I think we've complied. The contested case, when all ends, when all three of the following factors occur, the hearing's officer issues his report and recommendation, the Planning Commission either adopts, modifies or rejects that report, and the Planning Commission issues a decision in order resolving the contested case. That is exactly what occurred on November 16th, 2021, the Commission unanimously adopted the hearing's officer's findings and facts, conclusion of law. You issued your own findings and facts, conclusions of law, and decision and order. This is the moment the contested case ended and intervenors standard status ended with it. In conclusion, the applicants, David and I respectfully, request that the Commission correct the intervenor status prospectively and proceed honorably without further delay, to a decision on the revised applications, its completeness, its full merits, and based on the existing record and the revised Director's Report. Thank you.

Chair Ako: Thank you very much. At this time, does Commissioners have any questions for the applicant, or would you like to hold off until later?

Ms. Barzilai: We should maybe wait until all parties (inaudible).

Chair Ako: Until all parties present. Okay, we'll just wait. Thank you. Department?

Deputy County Attorney Chris Donahoe: Thank you, Chair. Good morning, Chair. Good morning, Commission. Deputy County Attorney Chris Donahoe, on behalf of the department. With regard to the submission of this morning by the applicants regarding the status of the intervenor, the Department's position is we'll leave it to the discretion of the Commission to decide on that motion, whether intervenor status should continue or not for CS Development and Charles Somers, excuse me, this as the Commission may know, this, this matter has been proceeding for, since 2019, seven years ago. And after the first submission of the application, the intervenors who were granted intervention at that time, a contested case hearing was ordered. The matter proceeded to contest the case and proceeded for nine days, all the way from March 2020 through July 2020. Then the matter went to the circuit court and then to the Intermediate Court of Appeals. And then we're back here again, considering sending this matter out yet again for further contested case hearings. What became clear and I just want to make a few points, what became clear in the first contested case hearing and subsequent court hearings and briefings, was that the intervenor who is the adjacent property owner, wants no structure at all, built, any development at all on the adjoining landowners whose the applicants property, the subject property. And that became very evident during the hearing and subsequent court hearings and wants to apparently delay and oppose the application approval process through whatever means possible by protracted, contested case hearings, protracted court hearings, protracted briefings. And it's demonstrated somewhat by a review when I reviewed the notice of contested or continued intervenor status that was dated January 5th, 2026, that was submitted by CS Development and Charles Somers, and that was before the agenda packet was even released to the public. So, without any specifics, the intervenor simply declares that applicant supplemental documents do not comply with the requirements of the hearing officer report. And so, there's no substantive evidence presented by the intervenor regarding the supplemental documentation. There's not even evidence that the revised application was even

reviewed. It's just a blanket objection, hey, they must have submitted something, we oppose it, that's...we're in complete disagreement, even though we can't really give any reason why it may or may not have complied with the requirements of the hearing officer that was adopted by the Commission back in 2021. So, the Department believes that the parties do have a right to a meaningful opportunity to be heard regarding the updated application, based on the report and recommendation of the contested case, that was from August 23rd, 2021, that was adopted by this Commission back on October 12th, 2021, which was memorialized in the right, in the order of the findings and facts and conclusions of law on November 16th, 2021, by this Commission. However, what the Department wants to avoid is a contested case hearing becoming yet another protracted delay tactic, where the parties are allowed to start once again from scratch and attack the issues that have already been previously argued and presented at ad nauseam, at length for nine days. And so therefore, the Department requests that if the Commission is inclined to send it out for a further contested case hearing, that the outstanding issues that are addressed specifically at that contested case hearing are limited to the following, which are contained in the findings of fact, conclusions of law. One, applicants provide to the Planning Department the revised application addressing alleged deficiencies number one, two, and six, and show compliance through those with KCC 8-3.1.B.3., and 8-11.5.C and D., and SMA Rules 71. Deficiency No. 1, is plan not drawn to scale, well, that should be pretty easy to verify at a small contested case hearing. Was it drawn to scale or was not? Deficiency No. 2, plans did not show all the proposed structures comprising the proposed project. Again, plans were submitted that should be at a contested case hearing, easy enough to verify. Are all the proposed structures that you're planning to build on the plans. In Deficiency No. 6, plans do not show the location of the subject product in relation to the other uses and structures within the Special Treatment District, and the ways in which it is consistent with the establishment. Again, with the submitted plans, that should be easy enough to verify. Two, the second requirement was that the applicant had to remit the rescheduling fee. I believe that was done. So, that should not be an issue at the contested case hearing. Three, provide to SHPD a copy of the revised application and confirm there is no change in its determination that the proposed project does not affect any historic sites. Again, that should be an easy enough issue to address at the contested case hearing. I did inquire whether the applicants did submit the revised application to SHPD, my understanding is I believe and they can correct me if I'm wrong, is they submitted it to the Planning Department and it was submitted to SHPD, but again, that's a that's an easy, verifiable issue that does not need nine days to determine whether that was done or not, nor whether Conditions 1, 2 and 6 based on those conditions were met or not. And 4, recommend that the Planning Department prepare the revised Director's Report and comment on the revised application and address the Ka Pa'akai Analysis. A Ka Pa'akai was done, it was submitted, it's been addressed and the Department supports the Supplement No. 2 to the Planning Director's Report. So, if this Commission sends it out for further contested case hearing, the Department is requesting that it just be limited to those issues and not a forum to attack all aspects, whether they like the landscaping or not, or I don't like the style of the house, which was actually raised at the last hearing. Those have all been litigated extensively. These are the only issues left on the table, and I think they can be resolved at a contested case hearing in a relatively short period of time, if it's limited to that. That's all. Thank you. And if you have any questions.

Chair Ako: Thank you. Okay. And this is...

Ms. Allison Mizuo Lee: Good morning, Honorable Planning Commissioners. My name is Allison Mizuo Lee. I'm Mr. Trask's law partner and the resident partner at Cade Schutte LLP. Kaua'i's office. Cades represents the intervenors, CS Development LLC and Charles Somers in this matter. And unfortunately, Mr. Trask sends his apologies, but he had a preexisting deposition that was scheduled before the agenda and the notice came out for this hearing. So, I'm covering for him just for this one hearing. You know, consistent with the January 5, 2026, notice of continued intervenor status and requirements for Continued Agency Hearing that Mr. Trask filed, our clients are respectfully requesting that this matter be referred back to the hearings officer, Mr. Harlan Kimura, to hold the Continued Agency Hearing consistent with his, Mr. Kimura's August 23rd, 2021 report and recommendation in this case, and this Honorable Commission's October 12, 2021, findings of fact and conclusions of law. And, as I understand it, what had occurred at the last proceeding was that the hearings officer did not deny the application, but also did not grant it, he said you need to submit additional information and set out, you know, I think it was ABC requirements which the commission then approved and said, yes, that's what needs to happen. Since then, there's been an circuit court and ICA, Intermediate Court of Appeals decision, which said you need to keep on continuing on with this process first before you come to us, we don't have jurisdiction yet. The process needs to complete itself here, you maintain your intervenor status, so your rights are protected. So, what has happened back at this level is that the petitioners have submitted what they believe to be sufficient for Mr. Kimura, you know, for him to make further findings about whether the application should be granted or not and whether the requirements are submitted. So, we're at that point. The next step is for him to then take the information that has been submitted, supplement or revise his report for this Commission to then make a decision not to just skip over those points. We're not requesting a reopening of a nine-day contested case hearing, but the opportunity for there to be for the intervenors to have an opportunity to be heard on whether there is sufficient compliance with what the hearings officer had requested and for him to make that decision and make a recommendation to this committee. So, that's I heard Mr. Donahoe say that that the petitioners, the intervenors, are entitled to an opportunity to be heard and that's simply what we're requesting for that to run its course and for an opportunity to challenge the basis for whether the compliance with the hearings officer's requested information has, you know, is satisfactory or not. Again, not trying to reopen or re-litigate nine days of contested case hearing. So, there's a limited scope of what we're requesting. This motion that has been presented, I'm very improper to give it to me, I think at this moment and ask for it to be heard. I think that needs to be set and due process be afforded with respect to that. And in addition to that, it's a settled decision of whether my client has intervenor status or not. That's been decided. There's a motion for reconsideration. Even the ICA's decision was kind of contingent on the fact that we did maintain intervenor status. All the other arguments, I think, number two, number three, whether the revised application is satisfactory, the merits of the application, that's, again for the hearings officer, Mr. Kimura, to weigh in on and make a finding. And so, I think that addresses all of the arguments that have been presented both by the applicants and Mr...the department, but I'm happy to try my best to answer any questions, given that I, Mr. Trasks, stand in today. Thank you.

Chair Ako: Thank you. I don't know if you'd like to...

Unknown Male: I'm just here primarily as eye candy, but you're objecting to receiving this today. We have yet to receive a written copy of the request...

Ms. Barzilai: Dr. Kells, may I please ask you to address the Chair and not the other parties.

Dr. David Kells: I'm sorry.

Ms. Barzilai: Thank you so much.

Dr. Kells: Thank you. We've yet to receive a copy of the...a written copy of the Request for Continued Intervention.

Ms. Neilsen: January 5th notice.

Dr. Kells: The most recent notice. It was, it was emailed to us, but it's required to be mailed and submitted, and we have not received that. So once again, they have failed to execute what they've said they have done by the Certificate of Service.

Ms. Neilsen: Can I (inaudible)?

Chair Ako: Sure.

Ms. Neilsen: The...sorry, the items that that were quote, unquote outstanding that the, that address the alleged deficiencies. Again, the hearings officer never said they were deficient, they're alleged deficiencies and they were, we were requested to provide additional information to provide assurances for intervenor. So, we've provided our assurances. Now this, our, this Planning Department has all that information. So, why does it have to go back to a hearings officer when the department, this Commission relies on staff to look at those things and make those reviews and see if it's complete. Why does it have to go back to a hearings officer? Doesn't...we have people here who can look at those and make the determination and my presumption, and maybe it's incorrect is that I, I wouldn't be here today if, if the information wasn't accurate and on point and meet the standards, rules and regulations of the laws of Kaua'i, maybe I'm misunderstanding that, but if I didn't comply already, I wouldn't be on the agenda. So, to refer it back to a hearings officer is highly unusual. It's highly unusual and does not happen. I've searched cases and for eight years now this is my, this is my job, this is what I've done. I'm not an attorney, but I am a smart, intelligent individual who knows my rights and my rights have been violated. My husband's rights have been violated. For somebody who has specious goals of objecting to everything that we do because he wants our land, well, guess what, he can't have it. So, my request is that since this Commission and the Planning Department has all the information in front of you, can you not make a determination whether we are compliant and whether or not we've met the standards today without referring it to a hearings officer? That would be a better use of time, that would be more appropriate to make this process more efficient. And that follows the law. Thank you.

Chair Ako: Thank you. Mr. Donahue.

Mr. Donahoe: No objections, per Planning Department.

Chair Ako: Allison, do you have anything to rebut?

Ms. Mizuo Lee: No, Your Honor. Your honor, well, you are, Your Honor. Force of habit. Sorry, Chair. Chairperson. A lot of things would be more efficient if we could skip over due process. I think that that has been very evident in a lot of things, but the rules are set up and the processes for review are set up and for a reason to protect various individuals rights, stakeholders rights. And in this case, Mr. Harlan Kimura was appointed to make findings or a report, and then for this Commission to continue to consider in making its decision. And he issued a report that said, I want to see more information or there's more information that's needed. The next step in the process is for him to decide whether that was sufficient, whether those requirements have been met, and for the intervenors to have an opportunity to test that at that level of Mr. Kimura's review.

Ms. Neilsen: That's not what he said.

Ms. Mizuo Lee: Thank you.

Chair Ako: Commissioners, questions?

Ms. Barzilai: Questions are appropriate, if any.

Ms. Streufert: Can I ask a question?

Chair Ako: Sure. Please, Commissioner.

Ms. Streufert: To the attorney for the intervenor, essentially, because you're not litigating anything new, there's no new information. All your, is it all that you're asking for is for the hearings officer to say it's been, that the conditions have been or the deficiencies have been remedied and therefore it's okay. I mean, I'm not sure I understand what you want, what you want to do.

Ms. Mizuo Lee: We would like for this decision, the next step in the process, I should say, for is to refer the information and I think the Director's Report as well, he did a supplemental report to go back to the hearings officer for my client to have an opportunity to challenge whether the new information either is sufficient to satisfy the requirements of what the hearings officer requested, is it complete, and whether that makes a difference in the ultimate decision.

Ms. Streufert: Isn't that the responsibility of the Department and for the Commission, rather than because the hearings officer has already said it can be recommended approval based upon fulfilling these three criteria.

Ms. Mizuo Lee: As I understand it, yes it is, the Department makes a recommendation, and of course the Commission is the one that makes the ultimate decision. In this case, there was a referral to a hearings officer to take in the Director's recommendations and make his own report and recommendation to you all. In this case, he said, I want to see these additional items. I'm not going to approve it at this point, but I, you know, these additional items are required, some of which are substantive, I believe.

Ms. Streufert: He recommended approval, I think. Based upon, I have to find that...it's been a while since I...two days ago that I read this, so...finally it is recommended that the Planning

Commission approve the proposed project, subject to the following conditions. So, the question is really one of whether those conditions have been met. Is that correct?

Ms. Mizuo Lee: True. And whether any information that has come up in the new submittals raises any issues as to whether that recommendation would stand or not.

Ms. Streufert: I don't see that in here, but I'm not, I'm not a legal, I'm not an attorney either, so, okay. I think that's it. Thank you.

Ms. Barzilai: Any other questions?

Mr. DeGracia: Just a quick comment. Piggybacking off of Commissioner Streufert's comments, I'm kind of in the same boat. I'm trying to sort out the directives we've had from the hearings, officer, and I'm trying to balance out why we need to send it back to the hearings officer. My short time here, I don't believe we had to send it back before, which is leaving me in this kind of odd predicament and situation of trying to sort it out, but just a quick comment, not too much questions for all parties.

Ms. Streufert: Can I ask for an executive session?

Ms. Cox: Yeah.

Ms. Streufert: I moved to get, I move to...

Ms. Otsuka: I second.

Ms. Streufert: ...go to an executive session and then return.

Mr. DeGracia: Second.

Ms. Barzilai: You can ask your question on the record, Chair. You can ask your question.

Ms. Streufert: Oh, I'm sorry, if...

Chair Ako: (Inaudible).

Ms. Barzilai: A motion to go into executive and a second.

Ms. Streufert: ...if others have questions before we go into executive session.

Chair Ako: Yeah.

Ms. Barzilai: Chair, did you have a question?

Chair Ako: I just have a few questions and then we'll entertain a motion. Yeah. Later. I guess one question I have is for the Intervenors. When have you become an intervenor in this case? At what point? I don't.

Ms. Mizuo Lee: I'm sorry, I'm sorry I have to review, but I had the understanding that this was a decision...

Chair Ako: Maybe the applicant might know.

Ms. Mizuo Lee: Okay.

Ms. Neilsen: So, if I understand the question, the question is, when did intervenor become, be granted intervenor status?

Chair Ako: Right.

Ms. Neilsen: In our position, it was, he should never have been given...

Chair Ako: No, I guess my question is, when was he actually granted the status of...

Ms. Neilsen: October.

Chair Ako: ...intervenor. Whether it was, whether you believe it was proper or not.

Ms. Neilsen: Sure, sure, sure. I appreciate that. So, our first public hearing was October 22nd, 2019. So, he would have had to petition for intervenor status and give notice to this Commission seven days prior. And the rules state that he must serve through certificate of service, all parties. David and I were never served and have yet to be served. So, our view is obviously that intervenor status should be, is void.

Chair Ako: Were you aware that he was participating as an intervenor during (inaudible)?

Ms. Neilsen: We were aware, but we found out the morning of, at 9:00, we were handed a packet of paper, and we didn't know what it was, so we were not given advance notice. So, therefore we were not able to adequately prepare for his requesting to be intervenor status. And that's that violates our rights.

Chair Ako: Okay.

Ms. Mizuo Lee: If I, if I could...

Chair Ako: Please.

Ms. Mizuo Lee: I see that in the hearing officer's report and recommendation that it says that at the October 22nd, 2019, public hearing to take action on the application, the petition for intervention was granted by the Kaua'i Planning Commission over objections of petitioners, October 22nd, 2019, I believe, is the date.

Ms. Neilsen: We can't object to something that we were not aware of.

Chair Ako: Right. Correct. So, I think one option that is facing the Commission here today is that we could send this to a hearings officer, or we could actually do the decision ourselves here.

Yeah. So, I guess one question I have for the intervenors is regarding do you have specifics in terms of why these conditions, as laid out by the hearings officer, have not been met?

Ms. Mizuo Lee: I would have to consult with Mr. Trask about that, and I can get back as soon as, if I can get ahold of him. And I apologize for that.

Ms. Barzilai: There's a motion on the floor, Chair.

Chair Ako: Okay.

Ms. Barzilai: So, if you want to continue discussion and debate, it should be withdrawn or we should act upon it.

Chair Ako: Unless you have a question.

Mr. Ornellas: I do have a question for the intervenor. The county attorney has made a very narrow set of recommendations. If it does, in the event that it does go back to the hearings officer, he's made a narrow recommendation for a narrow set of conditions that the hearings officer would consider. Are you in agreement with those conditions?

Ms. Mizuo Lee: Yes. It's not a re-litigation or reopening of the entire matter or anything like that.

Mr. Ornellas: Okay. Thank you.

Chair Ako: And would we be able to have a timeline in terms of how long this might, this process may take, given the focus of the application if it goes to a hearings officer?

Ms. Mizuo Lee: I would defer to the county attorney and Planning Director.

Chair Ako: Okay, and if we don't, we don't know. Okay.

Mr. Donahoe: Deputy County Attorney Chris Donahoe, I thought the previous hearing was going to go two days. So, I would assume if it's just limited to these events, no more than no more than two days, I mean...yeah, it would also be contingent on Mr. Kimura's schedule. So, I don't know if the days would be consecutive, but if it's just limited to the verification of those conditions, I don't foresee it going more than two days.

Chair Ako: Would it be looking at dependent upon his schedule and there's a time frame in terms of the preparation of the decision, is that a lengthy process? As he prepares it or is it like one week or is it or we don't know.

Ms. Barzilai: We can ask that it be prioritized, Chair.

Chair Ako: Yeah. Okay.

Mr. Donahoe: Generally, we would make after the hearing our closing arguments and then proposed and then he would submit his recommendations and then we get the chance to do exceptions.

Chair Ako: Okay. Before we entertain a motion.

Ms. Streufert: First, could I ask...could I ask a question? Mr. Donahoe, based upon all of this that you have seen so far, and we have seen what the Planning Department has said, that these are sufficient. Does this meet, from your perspective, does this meet all the requirements?

Mr. Hull: I know you guys are going into executive session. Generally, deferred it to Mr. Donahoe when we're dealing with litigation, you know. Ultimately, it's up to this body on what it decides. And I definitely feel for the applicant in this situation. The reason we have no objections and aren't pushing either is, is it's up to this Commission to decide, but, you know, not continuing the intervention status to a certain degree, from our perspective, would invite appeal and could create a much more lengthy process, quite honestly.

Ms. Neilsen: I'm sorry say that again.

Mr. Hull: Could invite appeal.

Ms. Neilsen: No, what did you say before that?

Mr. Hull: The, not continuing intervenor status could invite appeal and could result in a much lengthier process. And so, that's why we're not advocating for a contested case hearing to be continued. We're not against it. At the end of the day, ultimately, you got to consult with your attorney on that. But that's why we're not particularly pushing for (inaudible) to be denied, because it, the landscape of it looks like it could create a much lengthier process. And I defer to you folks to have a discussion with your attorney and executive session.

Ms. Barzilai: I think we should limit just a couple of more comments, Chair, and then Commissioner should either withdraw her motion or we should proceed.

Ms. Streufert: I move to go into executive session.

Ms. Barzilai: I don't think you need to make that motion again, it's already on the floor, so...

Chair Ako: We have a motion and we have a second. We have to go into executive session.

Ms. Barzilai: Okay. I'm going to take a roll call vote on that, Mr. Chair.

Chair Ako: Okay.

Ms. Barzilai: If that's your preference. Commissioner Cox? Motion to enter executive session.

Ms. Cox: Aye.

Ms. Barzilai: Commissioner DeGracia?

Mr. DeGracia: Aye.

Ms. Barzilai: Commissioner Ornellas?

Mr. Ornellas: Aye.

Ms. Barzilai: Commissioner Otsuka?

Ms. Otsuka: Aye.

Ms. Barzilai: Commissioner Streufert?

Ms. Streufert: Aye.

Ms. Barzilai: Chair Ako?

Chair Ako: Aye.

Ms. Barzilai: 6:0. I'll now read the notice into the record.

EXECUTIVE SESSION

Pursuant to Hawaii Revised Statutes Sections 92-4 and 92-5(a)(4), the purpose of this executive session is to consult with the County's legal counsel on questions, issues, status, and procedural matters. This consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Commission and the County as they relate to the following matters:

Special Management Area Use Permit SMA(U)-2020-1, Class IV Zoning Permit Z-IV-2020-3, and Use Permit U-2020-3 for the construction of a farm dwelling unit within Lot 7 of the Kahili Makai Subdivision in Kilauea, involving a parcel situated at the terminus of Kahili Makai Street and immediately adjacent to property identified as 4254 Kahili Makai Street, Tax Map Key: (4)5-2-021:007 (Unit E), and affecting a portion of a larger parcel approx. 27.56 acres in size = VALERIE M. NIELSON AND DAVID N. KELLS. [Director's Report received, 10/19/2019, Hearing Deferred/Referred to Hearings Officer, 10/22/2019, Hearing Deferred/Hearing Officer's Report & Recommendation Accepted, 10/12/2021).

Ms. Barzilai: The Commission will now enter into executive session. I'm sorry, but we have to ask you to please excuse yourselves, and we expect to be occupied for at least 45 minutes. Thank you very much.

The Commission entered into Executive Session at 10:18 a.m.
The Commission reconvened from Executive Session at 11:17 a.m.

Chair Ako: Okay, I'd like to call this Commission, Planning Commission meeting back to order. At this time, I think we have asked questions of the intervenors, of the applicants, of the department, and I'm assume that we're done with questions. If any other requests that's coming in. Mr. Donahoe.

Mr. Donahoe: Thank you, Chair. Deputy County Attorney Chris Donahoe, on behalf of the department. During the break, I did receive a call from counsel for the intervenor, Mr. Trask. We

had a discussion, he wanted me to relay the request that he's making to continue this matter, to set it for the next Planning Commission meeting so that he can, one, appear and two, have the opportunity to review and respond to the filing that was filed today by Nielsen and Kells. So, I said on his behalf, I would make that request to the Commission.

Chair Ako: Okay. Thank you. Okay. A new twist, Commissioners.

Ms. Otsuka: Do we need to respond to that?

Chair Ako: Yes. I think the request is whether we're going to defer it or not.

Ms. Barzilai: That there are allegations that due process is not being followed in this matter, Commissioner. So, in accordance with my previous advice, you can take that into consideration.

Ms. Otsuka: Okay.

Ms. Barzilai: I think it's unusual that an attorney would call off the record to make those accusations, but that's something (inaudible).

Ms. Otsuka: But he does have due process to do so?

Ms. Barzilai: So, you're being asked to continue the matter or to defer the matter.

Ms. Mizuo Lee: Could I add a few just to flesh out a little bit more of my...

Ms. Barzilai: You need to speak to the Chair, please Allison. Thank you.

Ms. Mizuo Lee: Sorry. Is that...

Chair Ako: Please.

Ms. Mizuo Lee: Again, Allison Mizuo Lee for the intervenors. My understanding is, and the question had been posed to me by one of the Commissioners about what would the substantive reasons be behind the, and I defer to Mr. Trask on that, because I apologize that I have not been involved in this matter to answer that question, but there are a few I could list them now, what those would be, but Mr. Trask has been speaking with Mr. Donahoe even before this meeting, and my understanding was that there was an agreement to request that this be deferred over, because the intervenors have not had an opportunity to even study the submissions that have been made on January 2nd by the by, not today, but even, like there's been a very limited time to review the supplement that the petitioners have provided. I think the Director's Supplemental Report came out just a few days ago, not too long ago, and so there hasn't been really an opportunity to study the new materials. But just off the top of the head, the issues would be with the location of the driveway and whether that access complies with the CPR documents and whether that access proposed access interferes with the intervenors access, and then also having to do with the requirement of State Historic Preservation Division. There was not, at least on an initial review a new letter from the State Historic Preserve Division that postdated the date of the Commission's decision. So, those just in general are just some examples. But the point is that these submissions are new, that the intervenors have not had an opportunity, a meaningful one, to

review it and would either like through the deferral to the hearings officer or for this meeting to be, this agenda item to be continued to the next meeting, an opportunity to respond to the substantive issues involved in the new materials that have been provided. Thank you.

Chair Ako: Yes.

Ms. Neilsen: The question regarding the driveway, that is a CPR issue and a civil issue, it is not an issue for this...Kimura already said that those are to be discussed at a civil level and not a part of this because this Commission does not involve itself with civil disputes. So, that is not something on the table at this point. And as far as the SHPD review, I contacted SHPD prior to this meeting and a couple of weeks after, it is the process for this Planning Department to send the documents to the all the departments that need to consider the application. I contacted SHPD, said did you get the documents? They said, yes, we're planning to meet. So no, I don't have something after the hearings officer's decision. However, I do have a phone conversation, and this Department would have forwarded the supplemental information and the new, the revised drawings to SHPD in order to get an approval or a review from the Director.

Chair Ako: I think the question that I would have for the department would be, filing of documents, has all of that gone out in a timely manner? Are we talking about, you know, supplemental Director's Reports? Yeah. Is there anything that the Department did not send out on a timely basis that each party should have had?

Mr. Donahoe: No. Deputy County Attorney Chris Donahoe. Not that we're aware of. No.

Chair Ako: Yeah. Okay.

Mr. Donahoe: Everything was sent out in a timely fashion.

Chair Ako: Maybe the question for the intervenors is, when did you, did you receive, your claim is that you did not receive the supplemental in a timely manner?

Ms. Mizuo Lee: What I'm, what I'm told...

Chair Ako: Got it. Got it.

Ms. Mizuo Lee: ...I'm sorry, is January 2nd was when the documents received and the report from the Director is dated, well, I think the 6th, so it had to have happened after the 6th. So, there hasn't been a meaningful opportunity to review that material and respond substantively from my client's perspective.

Ms. Barzilai: Ms. Lee. I'm sorry. I just want to confirm. So, you were, your law firm was served by Ms. Nielsen and Mr. Kells with the supplement?

Ms. Mizuo Lee: I cannot make that representation.

Ms. Barzilai: What occurred on January 2nd?

Ms. Mizuo Lee: According to Mr. Trask that's when the documents were received, I believe.

Ms. Barzilai: But we don't know how or if it was by mail or...

Ms. Mizuo Lee: I don't. I apologize.

Ms. Barzilai: Okay. Because the, your firm's filing is dated January 5, and then I believe the agenda was published on January 7 or 8. I'm sorry, I don't have my calendar in front of me, but...

Ms. Mizuo Lee: That would make sense in terms of why, substantively, there could not be much depth in the filing if it was filed. Just, you know, January 2nd, I believe, was a Friday, and if the filing was due, you know, made there was not very much opportunity to review anything.

Ms. Barzilai: I understand. Thank you.

Chair Ako: Thank you. Please.

Ms. Neilsen: So, we sent a notice, the neighborhood notice with return certificate of service which I believe, I'm sorry, I can't find it right now, but I believe it's dated December 19th, that that we were on this agenda. And then Mr. Trask was also on that list. I did not get a return receipt. However, the certificate of service was sent to him as well. So, to say that he was not aware is a misstatement.

Chair Ako: Thank you.

Ms. Cox: I'm having trouble with the...I interpret the whole situation slightly differently because from my perspective, when they, when we went into a contested hearing and the hearings officer made a report and the report recommended approving this, except for these, asking for this additional information, it did not require, it did not say it should go back to the intervenor, it just said this stuff has to be submitted and it was submitted and the Department accepted it, the Department said it was okay, and so in my head, I don't, I guess I don't understand why at this point it would need to go back to the intervenor or to the hearings officer.

Chair Ako: Okay.

Mr. DeGracia: Chair Ako.

Chair Ako: Yes.

Mr. DeGracia: Just a quick comment. It looks like we still got a lot to sort out. And at this point, even though I'd love to, you know, take action today, I feel that in the best interest of the Commission and for the success of this application, I moved to refer this item to a hearing officer with instruction, one, to limit the items being addressed to what is outlined in the hearing officer's report, and also to have the hearing officer prioritize this item. I'm not sure if we can limit the time, but just to have it as a priority.

Ms. Barzilai: You can, Commissioner. You can limit the days.

Mr. DeGracia: To two days?

Ms. Barzilai: You can.

Mr. DeGracia: Okay. That's my motion.

Ms. Barzilai: There's a motion on the floor for the contested case to remain open and for referral of this matter back to the hearing officer. Is there a second? If there is no second, then the motion fails. Is there a second? There's no second, Commissioner, I apologize for that. Then the other option is a motion...

Ms. Otsuka: Second.

Ms. Barzilai: Okay. There's a second on the motion. Motion on the floor is motion for the contested case to remain open and referral back to the hearing officer. Is there any final discussion or debate?

Ms. Otsuka: I'm not sure if I'm going to word this properly, but I was hoping there was a point where it would just end and there, the intervenor would not consider appealing in any way. I feel for the applicants. It's not, it's not an easy situation for us. Well, for me I should say.

Chair Ako: Other comments?

Ms. Barzilai: Motion to refer back to the hearing officer with specific limiting instructions. Chair, did you have final comments?

Chair Ako: Yeah, I think I'll throw my two cents in there. I think this is, I don't know, this is a case that has gone on for a long, long time already. And obviously depending on what seat you're taking, somebody is going to be on the upside, and somebody is not going to be there. I think when I look at the work that the Department has done, I have much confidence in the work that they do. You know, over a period of time, you know, you see what they do, and they build this, this confidence and credibility in all the work that they do. And I think from looking at the recommendation, in my mind, I would be comfortable and confident to be ready to make a decision today on this.

Ms. Streufert: I have the impression that we've gone through the process, we have the intervenor, it's gone to a hearings officer, the hearings officer has recommended that it be approved with certain conditions. The conditions have been met. It went to the appeals court or to the circuit court to see whether the hearings officer had jurisdiction and it was upheld, I think. And then it came back to us and the Planning Department has certified that all of the deficiencies have been met, and they are recommending, based upon Supplement No. 2, they are recommending that the Planning Commission approve the proposed project, subject to the conditions noted in the Planning Director's Report. And I agree with Chairman Ako, that, the both, when both the planning or when both the hearings officer and the Planning Department come to the same conclusion, then I can trust that and I would be inclined to not vote to send it back.

Chair Ako: I think process is very important, and I think in this case, process is something that really has been followed. So, if we have no other comments, questions.

Ms. Barzilai: Are you ready for roll call, Chair?

Chair Ako: If we can have a roll call.

Ms. Barzilai: Motion to have the contested case remain open and refer back to a hearing officer with specific limiting instructions. Commissioner Cox?

Ms. Cox: No.

Ms. Barzilai: Commissioner DeGracia?

Mr. DeGracia: Aye.

Ms. Barzilai: Commissioner Ornellas?

Mr. Ornellas: No.

Ms. Barzilai: Commissioner Otsuka?

Ms. Otsuka: Aye.

Ms. Barzilai: Commissioner Streufert?

Ms. Streufert: No.

Ms. Barzilai: Chair Ako?

Chair Ako: No.

Ms. Barzilai: 2:4. Motion fails. So, the hearing remains open. And now we proceed to the substantive, excuse me, the hearing is now closed. Well, we need a motion to close. That would be proper procedure.

Ms. Cox: I move we close the agency hearing in this matter.

Ms. Streufert: Second.

Chair Ako: Okay.

Ms. Barzilai: Motion to close agency hearing. Commissioner Ako?

Chair Ako: Aye.

Ms. Barzilai: Commissioner Cox?

Ms. Cox: Aye.

Ms. Barzilai: Commissioner DeGracia?

Mr. DeGracia: No.

Ms. Barzilai: Commissioner Ornellas?

Mr. Ornellas: Aye.

Ms. Barzilai: Commissioner Otsuka?

Ms. Otsuka: Aye.

Ms. Barzilai: Commissioner Streufert?

Ms. Streufert: Aye.

Ms. Barzilai: 1:5. Motion carries. Agency hearing is now closed. We will move on to the substantive item, which is item K.1. The intervenor status is now terminated, and we move on to the substance of Unfinished Business, K.1.

UNFINISHED BUSINESS (For Action)

Special Management Area Use Permit SMA(U)-2020-1, Class IV Zoning Permit Z-IV-2020-3, and Use Permit U-2020-3 for the construction of a farm dwelling unit within Lot 7 of the Kahili Makai Subdivision in Kilauea, involving a parcel situated at the terminus of Kahili Makai Street and immediately adjacent to property identified as 4254 Kahili Makai Street, Tax Map Key: (4)5-2-021:007 (Unit E), and affecting a portion of a larger parcel approx. 27.56 acres in size = **VALERIE M. NIELSON AND DAVID N. KELLS. [Director's Report received, 10/19/2019, Hearing Deferred/Referred to Hearings Officer, 10/22/2019].**

Ms. Barzilai: So, before you now is a decision on the permits as mentioned. So, if you would like to hear from the Department and from the applicants for any other further, any further information or to ask questions. Is there anyone who would like to testify on the substance of these permits? Hearing none, you can proceed.

Chair Ako: The report from the Director, from the Department.

Staff Planner Dale Cua: Okay. So, moving on to the Director's Report. I'll be summarizing the report and just highlighting portions of the report for you.

Mr. Cua read the Summary, Project Data, Project Description and Use, Additional Findings, Preliminary Evaluation, and Preliminary Conclusion sections of the Director's Report for the record (on file with the Planning Department).

Chair Ako: Questions for the department?

Ms. Streufert: Just for clarification, the eight, the eight conditions noted are from the, can be found in the supplemental documents under the letter from Don Chang. Is that correct?

Mr. Cua: Yes, maybe, yeah. I forgot to mention that there is a Supplement No. 2, to the Director's Report, which addresses the terms of the decision and order as a result from the contested case proceeding. As you noted, the eight additional conditions are as a result of the Ka Pa'akai Analysis that was prepared for the property. So, in the original report, the Department has listed a total of 12 conditions with its recommendations. And if the project is approved, then the Department is also requesting to include those eight additional conditions that was identified in the analysis.

Ms. Streufert: But of that eight of those eight conditions, the final one is not really a condition. It says, finally, it should be noted that the landowners have taken action to respect the cultural descendants who have ancestral connections to these lands and who have traditionally and customarily accessed the subject property, particularly to hunt. The landowners have welcomed and coordinated with the cultural descendants for their continued access to hunt. This is the spirit of Article 12, Section 7, that seeks to find balance between preserving and protecting traditional and customary Native Hawaiian rights, and private landowners rights to develop. So, that's really not a condition. It's more an affirmation of what they've already done.

Ms. Barzilai: Commissioner. Commissioner. Could you please refer us to the...

Ms. Streufert: I'm sorry.

Ms. Barzilai: ...page number and where you're reading from.

Ms. Streufert: Yes, it's in the supplemental documents.

Ms. Barzilai: And the title is...

Ms. Streufert: It's the Exhibit 11.S.

Ms. Barzilai: The title of the document is...

Ms. Streufert: And it is the title, the Ka Pa'akai assessment related to Native Hawaiian traditional and customary practices. These are the eight conditions that are referred to in the Planning Director's Report.

Ms. Barzilai: And which page are you referring to?

Ms. Streufert: Eight and nine.

Ms. Barzilai: Thank you.

Ms. Streufert: It's a letter from Don Chang. So, that I think the eighth is not really a condition.

Chair Ako: Yeah.

Ms. Streufert: So, could actually be rather than 20, it'll be 19 conditions total.

Mr. Cua: Correct.

Ms. Streufert: Is that, is that acceptable to the condition?

Ms. Neilsen: Just for the record, I don't have a copy of the Director's Report.

Ms. Streufert: It's in your supplemental.

Ms. Neilsen: No, I have I have a copy of what you have, but the Director's Report, I don't have a copy of that, but yes, obviously we're familiar. Thank you, thank you. Obviously, we're familiar with the Ka Pa'akai Analysis, and we fully support what Don Chang's findings are here. And we want to continue to honor, you know, how it's stated in here. And they were there yesterday hunting. So...

Dr. Kells: If that would be, changed slightly to be a condition, we're perfectly fine with that.

Chair Ako: (Inaudible) the Department is supportive of going with seven.

Commission Support Clerk Lisa Oyama: Chair Ako.

Chair Ako: The Department in support of going with 7 or 8 conditions.

Mr. Cua: Seven.

Chair Ako: Seven?

Mr. Cua: Just with the seven, yeah.

Chair Ako: Okay.

Ms. Barzilai: For a total of 19.

Chair Ako: Any last words from the applicant?

Ms. Streufert: I think that's commendable that your participation or your coordination with native practitioners has been completed and that she acknowledges it. It's rare that we see that kind of thing.

Ms. Neilsen: I just want to say thank you to all the Commissioners and thank you. I appreciate that, Dave and I both appreciate that the decisions are not easy, and it's not been easy for us either. But I just want to thank you for trying to be as fair as you can. And we just want to live at peace and honor the past and look forward to the future. So, thank you.

Chair Ako: Okay. If not, any other questions? Seeing none. Are we ready for a motion?

Ms. Streufert: I move that we accept the Planning, the Planning Department's recommendation to approve the proposed project for subject or Special Management Area Use Permit, SMA(U)-2020-1, Class IV Zoning Permit, Z-IV-2020-3, and Use Permit, U-2020-3.

Ms. Cox: Second.

Chair Ako: Any other comments?

Mr. DeGracia: Yeah, just a quick comment as I'll be voting to approve on this item. However, earlier my earlier decision to forego this, I hope it was in hopes that this application would be, it would have the highest chances of success and that, and that it would succeed. However, we're at this point, but Commissioners, I will be voting yes because I'd like to see this application go through. Just to clarify and put on the record for, and also for you guys to know where I came from.

Chair Ako: Okay, if not, Ms. Barzilai, can we have a roll call vote, please?

Ms. Barzilai: Roll call, Mr. Chair. Motion to approve...

Ms. Oyama: Laura.

Ms. Barzilai: ...motion to approve permits. Commissioner Cox?

Ms. Cox: Aye.

Ms. Barzilai: Commissioner DeGracia?

Mr. DeGracia: Aye.

Ms. Barzilai: Commissioner Ornellas?

Mr. Ornellas: Aye.

Ms. Barzilai: Commissioner Otsuka?

Ms. Otsuka: Aye.

Ms. Barzilai: Commissioner Streufert?

Ms. Streufert: Aye.

Ms. Barzilai: Chair Ako?

Chair Ako: Aye.

Ms. Barzilai: Motion carries. Thank you, this item is concluded. 6:0.

Chair Ako: Thank you everybody. Thank you for your (inaudible).

Ms. Barzilai: You want a recess, Chair? Recess for five minutes.

Chair Ako: Five minutes? Okay.

Ms. Barzilai: We'll be taking a five-minute recess. Thank you very much.

The Commission went into recess at 11:43 a.m.
The Commission reconvened from recess at 11:53 a.m.

Chair Ako: At this time as we got through the agenda, we actually have Pacific...what is it called?

Mr. Hull: Pacific Concrete (inaudible).

Chair Ako: Pacific Concrete Cutting & Coring next on the agenda. Just as a survey, how many of you are here for the Kōloa application?

Unknown Woman: And outside, Chair.

Chair Ako: Okay. Knowing that, if it's okay with the Commissioners and if we move, I don't know, what item is this? 2.b. in front of 2.a., and then we'll, we'll attack that first and then we'll take a break for lunch after that. Sorry. Pacific. Yeah. If we can do that.

Unknown Woman: Do we need to make a motion?

Chair Ako: No, I think we're good. We can just proceed.

New Agency Hearing

Mr. Hull: So, going into Agency Hearing 2.b.

CLASS IV ZONING PERMIT (Z-IV-2026-9) and PROJECT DEVELOPMENT USE PERMIT (PDU-2026-7) to allow construction of a multi-family housing project and associated site improvements on a parcel situated along the makai side of the Weliweili Road/Waikomo Road intersection in Koloa, further identified as Tax Map Key: (4) 2-8-011:001 and containing a total area of 9.436 acres = SK INVESTORS LLC. [Director's Report Received, 12/23/2025].

1. Director's Report pertaining to this matter.
2. Transmittal of Public Testimony to Planning Commission.
3. Transmittal of Agency Comments to Planning Commission.

Mr. Hull: This is the agency hearing. We have several individuals signed up to testify, so we'll call for testimony. You have three minutes for testimony. If you can, please identify yourself when you testify. Also, please be aware that there are two agenda items. So, the first is the agency hearing, which is, allow for public testimony. And then second will, right, directly preceding that is going to be the actual agenda item on the development itself. And there's an opportunity to testify a second time on the same items. Just be aware that is available. So, starting with those who have signed up to testify so far. Punohu Kekaulua III, followed by Roslyn Cummings.

Mr. Punohu Kekaulua III: Aloha on the record and for the record, my name is Punohu Nalimu Kekaulua III. I am here today in person as a konohiki descendant, as a hoa'aina and a ho'oilina, and with the support of hoa'aina tenants of the land, cultural practitioners and other konohiki

heirs and descendants who have vested shared interest in the lands, waters, access routes and resources affected by this proposed development. I want to be clear from the start, we are not here to suggest changes. We are here to demand lawful process and constitutional compliance. Under the Great Mahele, the relationship between konohiki and hoa'aina was established as a shared responsibility within the ahupua'a. Konohiki were charged with protecting resources and access, while hoa'aina retained rights to live, gather, travel and use the land. These rights were recognized, vested and never given up. Today, many hoa'aina in multiple konohiki areas who still hold responsibility and interest in these lands have not been consulted at all. That's failure alone means this review is incomplete. Our kuleana does not come from this county, this zoning code or this permit application. It comes from the ahupua'a system, the Great Mahele and the inherited responsibilities that continue through us as hoa'aina, people of the land and ho'oilina, those who inherit the duty to protect it. Our kuleana does not come from that or sorry, turning to the law, Article 12, Section 7 of the Hawai'i Constitution requires the county to preserve and protect Native Hawaiian traditional and customary rights. This duty belongs to the county itself and cannot be passed off to a developer. The Hawai'i Supreme Court confirmed this in *Ka Pa'akai o ka 'Āina versus Land Use Commission*, when a project may affect traditional and customary practices, the county must, number one, identify those practices and cultural resources, two, evaluate how they will be affected, and three, take reasonable steps to protect them. This did not happen. The Planning Commission, Commission's own permit requirements call for a *Ka Pa'akai Analysis*. The developer did not provide one, and the county did not conduct its own review, relying on missing or unsupported information is not lawful decision-making, okay. The county also has a duty under the public trust to protect water, natural resources and lands for the benefit of the people failing to fully evaluate aquifer recharge, water impacts and cultural uses is a failure of that trust, okay. State law also protects customary practices, HRS Section 1-1., confirms that traditional gathering access and cultural practices continue unless they were clearly taken away, they were not, yeah. Under the past decision, the Commission must actively protect customary practices before approving development even on private claimed land. The responsibility is on the...

Mr. Hull: Three minutes, Mr. Chair.

Mr. Kekaulua: ...county to prevent harm, on...harm, not on practitioners to fix damage later. The lack of consultation with hoa'aina and konohiki heirs also raises basic fairness and due process concerns...

Chair Ako: Okay, you have three minutes.

Mr. Kekaulua: ...because vested interests are being affected without meaningful notice or participation.

Chair Ako: Can you wrap up? You have three minutes. Okay?

Mr. Kekaulua: In addition, the authority being used here relies on unclear and unresolved boundaries. Tax map keys and zoning lies do not establish original land boundaries. When boundaries are and interests are unresolved this Commission does not have clear authority to approve permanent development. Let's be clear for the record, any development, developer or investor moving forward under these conditions, taking on serious legal, cultural and financial

risks. This project is disputed. Rights are vested, authority is unclear. Last thing, therefore, on behalf of ho'a'aina, konohiki families and cultural practitioners, we formally demand a full in EIS statement, at least a supplemental EIS...

Mr. Hull: Four minutes, Mr. Chair.

Mr. Kekaulua: ...number two, Ka Pa'akai Analysis conducted by the county not left for the developer. Number three, cultural impact assessment with direct consultation of all affected ho'a'aina and konohiki families. Number four, clear written findings showing how Native Hawaiian rights and resources are being protected. And number five, recognition of our right to request and proceed with a contested case hearing.

Chair Ako: Okay. Thank you for your...

Mr. Kekaulua: ...which we now...

Chair Ako: You can come back. You can come back.

Ms. Barzilai: Sir, would you like to come back?

Mr. Kekaulua: No. I almost pau. Okay, I gotta go. I don't have time for this. You guys drag this on all day long. I gotta get this out now. I'm sorry that I being so demanding, but this has to be heard right now. Okay? I no more time for sit here and do all this.

Chair Ako: Well, I think everybody doesn't have the time, yeah.

Mr. Kekaulua: Right. So, so you guys going hear me out. I get one more paragraph. That's it.

Ms. Barzilai: Sir, we invited you come back (inaudible).

Mr. Kekaulua: Any approval issued without these steps would be made without a reasonable basis, without proper review, and in disregard of constitutional and statutory duties, and would be subject to challenge under HRS Section 91-14. Our konohiki voice, together with the voices of ho'a'aina, is here to protect the land, the people, the resources...

(Chair Ako gavelled testifier)

Mr. Hull: We're in recess.

Chair Ako: We'll go into recess. Thank you.

The Commission went into recess at 12:01 p.m.
The Commission reconvened from recess at 12:13 p.m.

Chair Ako: Okay. If we can call this meeting back to order. Come on, guys, let's try and start this all over again, yeah. We try again, because, you know, I think for us, we do the best we can to, you know, give you as much respect as we can as we're going through this application. And hopefully we can expect that same thing back. So, just as another reminder, yeah, we have three minutes, three minutes to make your presentation. Come up, state your name, you have three

minutes. If you do not have enough time to finish in the three minutes, we can call you back up again a second time. So, let's try again. Start all over again. So, if we can now with our second person.

Ms. Barzilai: Yes.

Chair Ako: Who is that? Oh, I'm sorry.

Mr. Hull: Next up for testimony is Roslyn Cummings.

Ms. Roslyn Cummings: Aloha. Chair and Commissioners on the record, for the record, my name is Roslyn Cummings, known as Manawai'akea. I'm appearing in my own capacity as a kānaka, kānaka maoli, hoa'aina, ho'oilina in protection of waiwai, our natural resources, our commonwealth, in the God given imprints tied to 'aina and wai perpetuity. My standing is inherent, not granted by this Commission, and not dependent on title, permits or participation in a contested case. My authority arises from law you're bound to uphold, including HRS Section 7-1, which declares all water, natural resources and subsurface systems, this is in continuity. HRS Section 1-1, preserving Hawaiian usage and customs that ties back to the Hawaiian Kingdom law. HRS Section 172-11, 172-12, which covers RCA, RP, LCA, interest of access and gathering rights, reserving inherent rights that run with the land. Article 12, Section 7, mandating protection of customary and traditional practices and corresponding federal, state, county obligations, requiring equal application of law without bias or prejudice. I'm placing on the record notice to prevent unlawful divestment, quasi divestment, or impairment of trust resources. This agenda item proposes increased residential density on a makai parcel in Kōloa, an area already experienced high traffic volume, congestion, limited evacuation routes, fire risk and flood vulnerability, and known subsurface instability due to extensive cave systems. Kōloa is not an undeveloped or neutral landscape. In archeological and biological survey for Kōloa, documents, extensive lava tube cave systems, integrated Kōloa field systems, subsurface features connected to water movement, habitation, and burial practices. These cave systems are physical infrastructure, not symbolic sites. Under HRS Section 7-1, caves, water pathways and subsurface geology are protected resources regardless of claimed ownership, yet this agenda item is before you for action. A project specific archeological inventory, identification of subsurface cases, a title report identifying encumbrances and reserve rights, a water source analysis, a wastewater destination analysis, and traffic and emergency evacuation capacity assessment. When a Commission exercises discretion without identifying trust assets is quasi divest itself of lawful authority. Proceeding without this information creates legal ambiguity. Under Hawaii law, ambiguity affecting trust resources must be resolved against agency, not the heirs. Silence is not equal compliance. Silence by trustees is breach. This is especially true where increased density places residents, workers, visitors, and first responders at heightened risk during fire, flood, or evacuation events. I'm not asking for denial of this project today. I'm placing former record notice that this Commission cannot lawfully proceed without first making public, the above requirements associated with this parcel. This testimony is submitted without waiver of rights. Mahalo.

Chair Ako: Thank you.

Mr. Hull: Next, we have signed up Sandra Aki. Next, we have Ryan Book.

Mr. Ryan Buhk: Thank you. For the record, my name is Ryan Buhk. I live on Waikomo Road in Kōloa and I have a couple of statements to really quick. My question is about traffic mitigation and traffic plans and flow. Right now, we are facing a lot of traffic right at the Waikomo and Weliweli areas, and I want to know if the county has a plan to address that. So, I'll kick it back to you, Chair. Is there a plan in place for, with hand in hand with this development for traffic flow and mitigation with the traffic we're seeing now?

Chair Ako: Yeah, so...

Mr. Hull: At this time, we're not taking questions and the Commission is not answering. We're taking testimony.

Mr. Buhk: Okay. I would like to see a traffic plan. I would like to see a traffic mitigation plan, including, but not limited to a roundabout. I'd also like to see, as the plan states, currently, movement of the ingress, egress on the Waikomo Road side, up towards the Weliweli intersection. The reason why is that ingress, egress is directly across from three driveways, one of ours is included in that, and that's messy. So, I think that we can work with the applicant on this. Applicant has stated that they're willing to work on things and be open to suggestions from the community, and I would urge the applicant to get together with the community association, as well as Native Hawaiian stakeholders in the neighborhood, to develop a plan going forward. Thank you.

Chair Ako: Thank you.

Mr. Hull: Next, we have Lynette Buhk. Lynette?

Ms. Lynette Buhk: Yes. All right. Good morning or...

Chair Ako: Hello. Hello.

Ms. Buhk: ...maybe good day.

Chair Ako: Good day already.

Ms. Buhk: For the record, my name is Lynette Hamano Buhk. I've lived on Waikomo Road. I'm 87, and I've spent most of my time there. We are being asked to look at this project that is coming up, and it is kind of a surprise because we were never included in a community type of presentation by the developer. And so, we are looking at the traffic that will start with all of this homes that they're trying to put in this small area. The traffic is also our, what is it going to be for our community? What's the impact? And that's traffic, and also where are they going to be sending all of our... the... We in Kōloa do not have a system for sewage. So, now we're going to have these homes come in and these homes will have their own sewage system, but all of us who have been there have nothing to do with it. And I would like to see how we could be included in this system. We talk about our people not being able to, our children not being able to come home. They're going to the mainland because they can't afford what it is now. With the system in Kōloa, we are one of the few communities that don't have a system. So, if we want to build an AD, we can't even do an ADU. If we put an extra home, we have to pay for a system. And I'd like to see what this project can do for the town of Kōloa. Thank you.

Chair Ako: Thank you.

Mr. Hull: Next, we have Carol McCarthy. Carol McCarthy.

Ms. Carol McCarthy: I am going to give my time over because I have a lot of things to say about this. I do not trust the way that this was put forth, and it has not been given over to the community, although there's claims that it was and it has not, not in this, in this way that 160 units and what have you. I will be writing more. I've written a letter to the Commission, and I'm investigating this more deeply because I think there's a lot. And I hope you guys keep your eyes open and not listen to just nice words from a developer. And I'm going to be writing more to you about the things I've uncovered. And there's a lot being spoken and I'm following it up to see the verifying what I hear. That's all I want to say for now, until I can contribute more and it'll be in writing. And I did send something yesterday. I don't think it made your desks. I'm hoping that you read things, even if they're late, at another time when you have time for it. So, I don't know that you do, but it's just the beginning of what I'm going to be sending to you. Thank you so much for your time.

Chair Ako: Thank you.

Mr. Hull: Next, we have Raphael Kauai.

Mr. Raphael Kauai: Good morning, everyone. For the record, my name is Ralph Kauai. I reside in Kōloa for 22 years, residing adjacent to the project proposed. I worked for the Lihu'e Plantation as a manager and a water specialist supervisor, now owning my own trucking construction company, work with a lot of development and construction in Kōloa and Po'ipū. Chair, Vice Chair and members of the Commission, I humbly ask you to defer providing more time to address outstanding issues or modifying the proposal before a final decision is made. To support the request, I have the following talking points. The surrounding neighborhood is made up of mainly a low-density residential home and housing, intended to serve the local community, not a high-density multifamily development. The multifamily Class V Zoning Permit and the Project Development Use Permit will have a huge impact on the current community, resulting in higher property taxes, homeowners' insurance, etc. This will likely force existing residents to relocate. Reviewing the planning agenda, I do not see that a traffic impact study has been completed. I request that the rezoning be deferred until after the current construction at Kōloa Village is completed and done. The Waikomo, Weliweli Roads are already experienced congestion during peak hours, tourist traffic, bumper to bumper traffic during emergency alerts. A large multifamily project fundamentally alters the character of Kōloa by increasing density beyond the local roads, utilities, and neighborhood patterns, which are designed to support new building size, heights, traffic, and noise that conflict with the existing resident character of the area. The slate single parking stall racial is concerning. Who is going to monitor the overflow of parking in the surrounding areas? Limited public transportation in the areas require individuals to have a vehicle to get to and from work, even in a single family home, two cars are normal. Lastly, and thoroughly review of the environment impact assessment needs to be revisited. The entire 9.436 acres is home to a massive number of high lava mounds that have been remained untouched for a 100 years, and no homes have been built around or next to them. Is there a guarantee that during construction, it won't affect the foundation of existing dwellings and surrounding the projects that was a 100 years old? Who will be responsible when all the hammering and rollers and all

these construction happen? You know, our 100-year-old homes, which is ten feet from the project, will it be affected? House shifting?

Mr. Hull: Three minutes, Mr. Chair.

Mr. Kauai: House shifting and, you know, anything can happen. So, I just thank you for your time and hopefully that this project gets deferred. Thank you.

Chair Ako: Thank you.

Mr. Hull: Next, we have Haku Kaiminaauao.

Mr. Haku Kaminaauao: Aloha. For the record, my name is Kahakualii Kaiminaauao. Just wanted to share my peace and my voice. Three generations right next to this project that is being developed. I don't oppose projects being developed, but I do ask that we look at this closely to mitigate safety impact, do a traffic control study. I live the entrance to my road, which is Kapau Road is on Waikomo Street, so it's right next to a single lane five ton bridge. Already there's traffic going to Kōloa School. My kids walk to school and it is a safety risk for sure. So, I ask that the county look at that very carefully. So, I ask that we also defer this so we can discuss this as a community more in depth to look at more opportunities to improve the neighborhood for also, again, safety. There's no crosswalk going to the project to Kōloa School. I also use Hapa Road quite a bit to do walking. The current project that is existing and almost completed right now. I don't think that that single lane parking that's adjacent to the road is sufficient enough. We already see that when construction workers park next to that road, it turns that road into a single lane. We often have to stop and let other cars through in order for us to drive past. Hapa Road, if you guys been there Sunday during church, that place is packed on two sides of the road already, so we need to look at that as far as what does that traffic look like on the two lane roads as well, going into Hapa Road. Again, my other point is, aunty mentioned the wastewater. I know there's, you know I see it closely happening when there's heavy rain and floods. You know you have to constantly work down that that system down in down by Kōloa Landing, which I'm assuming this is where that project is going to lead to. What do we have in place to expand that system so that we don't get into a position where we have an overflow during flooding as well. So, I just ask that you guys look at all that options and defer this for later. Appreciate it. Thank you.

Chair Ako: Thank you.

Mr. Hull: Next, we have Chad Schimmelfennig.

Mr. Chad Schimmelfennig: Aloha, Chair. Aloha, Commissioners.

Chair Ako: Hello.

Mr. Schimmelfennig: For the record, my name is Chad Schimmelfennig. My family has called the Kōloa area home for many generations. And has generational ties to this land, I serve as the Executive Director of Na Wāi Hanai o Kahili, a nonprofit dedicated to preservation, restoration and education of our historic sites throughout the areas touched by the waters of Kahili Mountain. I am also a Kōloa representative for the Burial Council. In addition, I work as a cultural monitor and actively restore and store historic sites and sacred sites within this moku. As an advocate of the community, I humbly come as someone practical, professional experience,

education and cultural practice. I want to begin by clearly stating I am not always in support of development in Kōloa. The land carries deep ancestral, cultural and educational significance that cannot be replaced once disturbed. However, I do understand there are limitations to my ability to stop developing entirely. And so, I stand here today to offer my advice and collaborative perspective based on my knowledge of cultural sites and community history, with the intent to protect what we can. I'm here in strong support of deferring this proposal or its approval of the of the project, especially for those who live by and are nearly affected. This area of Kōloa is well known for the extensive lava tube system, with small entrances that lead to a larger underground networks. These formations hold water or even iwi kūpuna, our ancestral remains, making this a highly sensitive and significant area, because of this, great care and proper assessment are essential before any ground disturbances begin. Should this project proceed in the future, I strongly recommend the Commission require the following conditions, one, prohibit micro blasting and similar excavation methods that could be damaged underground features or cultural sites. Two, require qualified archeologists, cultural monitor, and geologists to be present during all phases of excavation. Three, conduct a full updated archeological inventory survey of the entire area to ensure the current and accurate documentation of cultural and historical features are accounted for. This EIS should also take care not to automatically classify traditional rock structures, or pā pōhaku, as merely cattle walls, or any of these have cultural and historical significance tied to traditional land divisions, trails and family boundaries. Four, conduct perform core drilling and geotechnical studies to proactively identify any lava tubes, voids, or underground features before excavation be started. Deferring this approval ensures that the Kōloa community, those who hold generational knowledge of this 'aina, are meaningfully consulted and that the cultural landscape is treated with the respect it deserves. Mahalo nui for your time, your diligence and (inaudible) the voice of Kōloa. Mahalo.

Chair Ako: Thank you.

Mr. Hull: Next, we have up Julie Souza.

Ms. Julie Souza: Aloha, Commissioners. It's been a long day for you all, but just as long for us.

Chair Ako: That's right.

Ms. Souza: My name is Julie Souza, and I am here today just to share my concerns of what's happening in our town of Kōloa and in the whole district of Kōloa regarding this new project. We have two projects that are coming online soon, one just opposite from where this one wants to go in, the other down on Po'ipū Road. Now that's how many more cars that's going to be on Po'ipū Road, Weliweli Road, Waikomo Road. It just goes on and on but there is no more space. You try to go to Kōloa, if you're shopping in the Kōloa town, it's accidents waiting to happen. There is so narrow. The people are parking everywhere now. Can you imagine when the, his newest project opening up by Hardware Hawai'i? I understand there's only one parking space per unit. Now what Hawaiian family has only one car? They're going to be parking on that road. And if you go through there now, with the construction going on with the trucks on both sides of the road, it's terrible. It's really bad. I mean, they're not doing the studies, but yet this man comes along and we have another project we want to put in, you know, we want to get a permit for this other project. Kōloa has enough. I mean, they keep taking and taking and taking from the people of Kaua'i and Hawai'i nei, you know, give us something back, like give us the room to go into the wastewater plant, like how he's going, because soon we'll have to close up our cesspools.

There's no other wastewater plant right now, and that one is nearly full. So, what are we going to do there? The infrastructure hasn't been done. Parking hasn't been done. You know, all of these things. It's the wastewater. It makes me really sad of if they start to dynamite under there. I know my uncles were all in the sugar plantation. They know of all of the lava tubes. What's going to happen to these lava tubes, which is a natural flow of water from the Waita area down into the ocean. That's going to be gone because no more lava tubes, because they're going to be they have the dynamite that blew tile rock to get through. So, we have to defer this project, you know, we need more studies. Move it to another area that's open space. They're thinking that if you build projects like this close into town like this, that people will be walking the towns to go grocery shopping. That ain't going to happen. Not with our local people. They're going to come to Costco to shop. They cannot shop daily. They have to find a bigger place to shop. So, it's kind of, you know, it makes me sad.

Mr. Hull: Three minutes, Mr. Chair.

Ms. Souza: I know I'm taking up my time. Did I have three minutes already?

Chair Ako: Yep.

Ms. Souza: It's pau?

Chair Ako: Yep.

Ms. Souza: Well, I'm a Portagee, I was trying to talk as fast as I could.

Chair Ako: Ms. Souza, please. Just wrap....

Ms. Souza: Okay. But, I thank you. I thank you so, so very much. You know, if they can tell me that affordable housing is \$600,000, where are our local people going to get that money?

Chair Ako: Thank you.

Ms. Souza: So, I thank you, thank you for the time.

Mr. Hull: Next, we have Brenda Loudon.

Ms. Brenda Loudon: No, I'm here to observe. Thank you.

Mr. Hull: Next, we have Jeri DiPietro.

Ms. Jeri Di Pietro: Aloha, Planning Commission and Planning Director. Welcome to our new Chair and Vice Chair. Congratulations. My name is Jeri Di Pietro. I live in Kōloa. As President of the Kōloa Community Association, I received many calls from the community when word circulated about this public hearing. The association did not receive our usual hard copy notification to our P.O. box in mid-December, when a limited number of neighbors were notified. How was the Kōloa Community Association and other community organizations left out? The issues raised by our membership include increased traffic, especially on Waikomo Road, as you've heard, which is already difficult for residents leaving their driveways. The

evacuation routes were a concern, and our limited road capacity was also expressed. In addition, major concerns about disturbance or collapsing of the well-known unique lava tubes in the area. These lava tubes are vital for drainage of the heavy rains and flooding that seem to be increasing in Kōloa. Our old Kōloa town lacks drainage and Waikomo Stream is a waterway, as a waterway for runoff is insufficient, the cleaning of the stream is incomplete and inconsistent. (Inaudible) lava tubes are a part of the water flow and the drainage system. Most of all, community expressed deep concerns about the lack of input in the planning stages and a formal presentation with site maps and plans. The knowledge, history and observations of place held by our lifelong residents is such a valuable resource. We think that it is appropriate protocol and most respectful to inform all the residents and businesses with a formal group discussion at the Kōloa Neighborhood Center. Kōloa has fewer and fewer undeveloped areas. Places that show what it used to be like. While we understand the purpose of affordable housing for full time residents in the Kōloa town core, the spike of visitor units that have gone up mostly in the Po'ipū area. They were there due to these long held decade old permits without a sunset clause, and have favored profits over people. And we know that the Commission is beginning to acknowledge that we need this sunset clause. We respectfully ask that permitting be deferred until environmental impacts, community input and due diligence is thoroughly complete. Thank you very much.

Chair Ako: Thank you.

Mr. Hull: Next, we have Rachel Fuller.

Ms. Rachel Fuller: Hello. For the record, my name is Rachel Fuller. I live in Ōma'o and I drive on Waikomo Road every day for work. I work for a construction company. I'm not opposed to development. However, I am concerned about the lack of sidewalks on Waikomo Road. I have many times seen people almost get hit. One time I saw a jogger that had to jump out off the road, she was jogging on the road and had to jump off the road and twist her ankle and fall down because there is no walkable space on that road. Also, I'm concerned about the flooding as well. I lived in Kihei on Maui for six years, and I had many conversations with people that had lived there for 50 years and said South Kihei Road never flooded before the wetlands were drained and houses went up and there was nowhere for the water to go. And in 2023, there was a firefighter that was swept down a storm drain and washed out to sea and killed because of the lack of anywhere for the stormwater to go. So, those are my concerns. I just ask you to do some studies, make sure that the water has somewhere to go, because we do deal with flooding there in Kōloa. Thank you.

Chair Ako: Thank you.

Mr. Hull: Next, we have Kanani Kagawa.

Ms. Kanani Kagawa: Aloha, Commission Chair and Commissioners. My name is Kanani Kagawa. I was born and raised on the island of Kaua'i. Currently I serve in various capacities, but speaking on behalf as a board member of Na Wāi Hanai o Kahili, which is a nonprofit group that engages in restoration and preservation of cultural sites touched by the waters of Kahili. And through this testimony, just involving some of my experiences working for developers, I've worked on at least seven projects in Kōloa and made so many mistakes that my hope that I can share with you guys to educate you guys that we don't continue to make these mistakes. I worked

on affordable housing projects, residential projects, resort development projects in areas of the community we've listed, you know, just a slew of experience. And first, I wanted to share that, first and foremost, this Project Development Use Permit is we're granting, you know, just for us to be reminded, the Commissioners to be reminded, the applicants requesting exemptions from a traditional permit. And as such, the Commission has the authority to impose conditions that the community really wants. I hear, you know, I would implore the Commission to defer any decisions today until you, we receive and the public is able to review the project closely on standard or drainage report is missing. We don't know what the drainage is going to do, parking standards are missing, what the sidewalks are going to look like, if sidewalks are going to be required. In the report, I didn't see a response from Public Works, which is real critical in a design of a project because they play a big role in what the sidewalks are going to be like, what the roads are going to look like for our community. There was no input from Department of Education. I know just from developing several projects, that Kōloa Elementary is nearing its capacity. This project could trigger additional requirements, including a school impact fee or funding to build additional school classrooms. Land was set aside by previous developer Kukui'ula for the expansions that there was no communication to Kōloa School of the incoming project, so that's kind of a big thing if we're going to market this for local family housing, these homes will have children in them. The big thing I wanted to bring up was that the project, as is, if it was to be permitted, doesn't qualify under the housing agency, the Chapter 7.a., however, this developer is requesting a Project Development Use Permit, which in my opinion, or we can get an attorney to look at. Means that the housing or the Planning Commission can impose an affordable housing requirement. It doesn't have to be similar...

Mr. Hull: Three minutes, Mr. Chair.

Ms. Kagawa: ...to 7.a., so you know, you're looking at gap housing 140 to 160, that's 220,000, making 20% of that available to 120 really is focusing on that. And just I would request the deferral to get more information. But again, as a Project Development Use Permit, this Commission can impose conditions and it's only good for your substantial development should be, the developer or the applicant needs to have their building permits within a year, or the permit expires. If someone brought up a time limit, I'll come back again. But thank you for your time.

Chair Ako: Thank you.

Mr. Hull: Next, we have Loreen Naumu.

Ms. Loreen Naumu: Sorry, Chair. For the record, my name is Loreen Naumu Balocan. I reside immediately adjacent to the proposed project. My mom and I, and don't mind me just getting emotional. I also was...a lot of friends lost their lives in the Lahaina fire, and...but I wanted to just mention for my family and let you know a little bit about our background. You know, we have the largest parcel. I did hand our testimony in to you, so, you see. And my grandfather, my great grandfather, he always was one to give back and we did that growing up this whole homestead. And I understand and I'm very open about the development and housing. So, I want to defer this so we can get more information from that of how they're going to help the community, especially within our resident area. Currently, right now, our property, we can build more homes, but we won't. The roads are so narrow that fire trucks, they have to turn around. We

had a fire down the road of us. We had a fire even on our property and for the safety of our community, my neighbors, they are my ohana as well. And from my dad, Harold Naumu, he raised me to be to be giving. My ancestors, the Shinagawa family. They were the same way and it's how we were brought up, is how to really think about all of our neighbors and making sure that they're protected. So, here I do want to hear out on this huge development, on this nine acre parcel. For 100 years, it never got developed. So, what is the impact that's going to, that's going to affect us within our neighborhood area? And so I, you know, humbly ask you all is to really look at this and let's have the community, you know, I cry to just listening to their testimonies. I've learned so much now just in the last four days, because I work out of my home, I do tourists, I am in the tourist business, I have my destination management company and my company, I look at the well-being of everyone. We cater to the local farmers. We bring groups to the hotel, but we mainly look at our, again, our vendors and everybody on this island. And I look at, you know, the owners now, I am open to see what they're going to do to help us. And not that later on they're going to, we're going to have to leave, higher taxes on property tax. With my ohana right now, our property, we are safe the way my dad managed it, and right now we have all affordable housing. We have a low-income apartment housing. My dad wanted to give back as how my grandfather did. We have housing over there that you're not going to believe how the rent is, but I believe that the local family can afford. So, I'm there to support them, that they can raise their money to buy a house somewhere else. But it's getting harder. But again...

Mr. Hull: Three minutes, Mr. Chair.

Ms. Balocan: ...I just see that, that you do defer this and so we can learn a little bit more about it. But I thank you very much, Chair.

Chair Ako: Thank you.

Ms. Balocan: Mahalo.

Mr. Hull: Next, we have Maria Almeida.

Ms. Maria Almeida: Sorry, I didn't hear good. Aloha. My name is Maria Almeida. I grew up in Kōloa all my life pretty much grew up Kōloa, Po'ipū area that was my stomping grounds. And I've seen so much changes, so, so much changes. And I get that, you know, things happen, jobs need to be, you know, filled...all of that...economy, I get that. But as far as this project, I lived, I live on Hapa Road, right down of the project near where Loreen is, and again, I have seen Kōloa Town change so much, and I am opposed to this project. And I made a list of things that is concerning to me. I like to defer also as what Loreen was talking about, but I have not seen any plans for improvement of roads as everyone else talked about. I have seen no plans for children. This is what I'm really concerned about, children. Kanani was talking about school, the school being maxed out, you know, and this has been happening for a while from what I understand. Parks, recreation for children. I drive around the area, and I see kids playing in, you know, in their small yards, whatever, 6,000 square feet, and also on the roads. What's going to happen to the kids? We have a park, a Kōloa park, but it's pretty much maxed out. Everybody is fighting for space. And I guess what I'm getting at is I feel like we putting the cart before the horse, and it's so bad planning for any community, any community, any island, anywhere, you know, that you want to build housing. I feel like all of these things got to be looked at first. You know, there

is no plans for from what I see is water drainage. I used to work at Pizzetta's Pizza before they closed, before they closed for, for because of Covid. And I was driving at night to do a delivery right at that four way stop. There was a small rain shower, maybe about five, ten minutes, and that whole area, that whole road, had look like a river coming down there, and that was only like five, not even ten minutes of rain. And it flows right down to Waikomo Stream. And I understand that Waikomo Stream has overflowed since that the new shopping center has been built. I've seen it myself. I know I only have three minutes, so I'm trying to talk really fast. My family used to live, a lot of my family used to live in that corner, that wine shop and the corner, that whole area over there, and I remember my Uncle Joe's house, the property used to go down. So, I know a lot of the water used to flow in that area, and I remember there was this big, great drainage area. I don't know what happened. It's not, the water is not, is flowing into the streets now. So, that's another concern that I have.

Mr. Hull: Three minutes, Mr. Chair.

Ms. Almeida: So anyway, that is my concerns. I'd like to also see this deferred so we can get more information. And my last statement would say, I want to say that, you know, after the developer leaves, what are we as a community going to be left to deal with? We are the ones going to be impacted, not the developer. They come, they make their money. I'm not opposed to housing, affordable housing for sure, but I think this is the wrong place to develop really. You know, and I think about, like I said, the developer making their money and leaving and we got to live with that. So, thank you.

Chair Ako: Thank you.

Ms. Almeida: Mahalo or your time.

Mr. Hull: Next, we have Melinda Morey.

Ms. Melinda Morey: Aloha. Aloha, Commissioners. My name is Melinda Morey. And I want to go on record saying that I oppose this development. I also grew up in Kōloa and, and own a business in Old Kōloa Town now, and most of what I've had planned to say has been said already. I want to say that the people who have taken the time to show up here today are here, taking our time out of work, because it's directly impacting us. Every time I drive to Sueoka, I drive to Big Save, you know, it's mayhem. And especially this time of year during the holidays, you know, I was going to deliver soup to my son who was sick, right, you know, in old Kōloa Town, and some tourist pulled up and parked in front of our no parking signs and was like hassling me because I was trying to park in front of our house. And it's just this kind of, you know, we're talking quality of life here. The town of Kōloa is an historic town that was not designed for the number of people and vehicles that are currently using it, and a project like this is going to, you know, multiply that tenfold. So, you know, it's very clear that all of the impact studies, whether it's waste management, water, the noise is another thing that hasn't really been talked about, the noise from the current construction of Kōloa Village, you know, the jackhammering and it's loud and you can hear it, you know, I'm quite a ways away and you can hear it from there. The dust, even though they, you know, try to spray dust down, is an impact. So, there's a lot of factors. And I just, you know, you are empowered to, to hear the voices of the

people and to kind of protect our way of life here. And it's changing. And we're at a critical point. So, I implore you to hear what's being said today. Thank you.

Chair Ako: Thank you.

Mr. Hull: Next, we have Tessie Kinneman.

Ms. Tessie Kinneman: Aloha, Commissioners. Tessie Kinneman, for the record, I totally agree with all the testifiers before me, and so I'll try not to cover what they have already, but excuse me, the Directors preliminary recommendations that the, that these permits be approved with the following conditions, and it's listed and I find the application being very (inaudible), you know, I think the applicant still has to do a complete CIA and a TIAR, the last TIAR done was like maybe 25 years ago, and that was like during the Charlier Plan in the Kōloa area. And it didn't really address Weliweli Road or Waikomo, it's pretty much the perimeter. The, I lived, when I, I grew up in Kōloa Town. I lived like about a hundred yards from the project, where the ohana housing is, but this was back in the plantation days. So, I know, very aware of flooding in that area. When I was...in the 50s, in the late 50s, we had flooding and still, you know, was in all this development, yet there was a lot of pervious areas there. But now with the flooding we've had, it's not fun anymore. I mean, the water this last, this last flooding, the water just rushed straight down to the street and I was in a building, I work in a building that's at the end of Waikomo and Po'ipū Road. I mean, our step is like this, at least the foot, and water went in there. I mean, that's how bad the flooding was and the way the water was rushing down the street. We even had cinder blocks in the yard. I mean, that's how heavy it was. So, even my main concern is, besides what everybody else mentioned, which is very important. The rock outcroppings there, that's a natural resource and those rock outcroppings are lava tubes, and they're like a huge, big detention basin under there. So, that's the only, a big concern for me because, well, once you fill those lava tubes and you know, when you're building, you fill up all the pukas, I mean, where's the water going? You know, so it's for me, it's one of the flood zones right there in that area. And everyone's been talking about just deferring this issue, I think the Planning Commission should just deny this whole thing until the developers do come back with a more thorough plan and this testimony in the, that Ka Pa'akai was sent out for people. I totally agree with Ms. Cummings' bullet points. I think all those questions should be satisfied before they even come back for an application. I would say just outright, I'm sorry, we shouldn't be wasting our time.

Mr. Hull: Three minutes, Mr. Chair.

Ms. Kinneman: So, if they complete all of those questions, I think they would help the community feel better about it. I would rather see my myself, besides that, I would rather see that those two areas where the both, both sides of the street, where you have the rock outcroppings, all of that be kept open space...

Chair Ako: Thank you.

Ms. Kinneman: ...because Kōloa Town is just congested and we choking. We need space. Thank you.

Chair Ako: Thank you very much.

Mr. Hull: Next, we have Leialoha Sanchez.

Ms. Leialoha Sanchez: Aloha mai kākou. Mahalo nui. (speaking Hawaiian). So, thank you all. My name is Leialoha Sanchez. I am what's, I'm from Kapa'a. I am a malihini to Kōloa. I am a visitor. I'm a guest there. But I am kānaka, so I'm going to speak on the part of the Pa'akai Analysis that was done. The fact that this analysis has so many discrepancies. I'm considered a cultural expert, which I absolutely hate being called. However, with my area of expertise and working on several different projects, I'm privy to information. I've got to meet with ohana. I've got to meet with families everywhere. The fact that 36 families were reached out to and four responded. Yet in our Director's Report in particular, it stated the report and the analysis was completed in July of 2025, however, correspondence and second letter of notification to these families to come out and speak wasn't sent until September. How is that possible? We as a, this as a county, as a Commission has to do better. These people deserve better. Our families. You hear? I'm sitting in this room listening to testimony. I get choked up every now and then when you hear a kūpuna talk. But we as a county, as a Commission, need to do better. We need to demand better excellences at what we do. Culture, respect of the culture, hearing our people's voice, hearing their voices. I've worked on projects where the people, I'm usually called when we're doing damage control, it's too late already and we're trying to get families to invest. We're trying to change their minds. I'm now on the other side. We're talking prevention. We're talking about education. So, now is an opportunity for this Commission to really look at the documents. If we want to talk about our people trusting government, being transparent in the things we do, it starts now. And you each have an opportunity to change that. I challenge you to do that and take the time. Mahalo nui no ka ho'olohe 'ana mai. Thank you so much for listening. I appreciate your time. Aloha.

Chair Ako: Thank you.

Mr. Hull: Next, we have Elizabeth Okinaka.

Ms. Elizabeth Okinaka: Aloha Commission. For the record, my name is Elizabeth Okinaka. I want to follow up on that topic. So, I think a lot of people here have mentioned a lot of important issues. Kōloa school, traffic, drainage, lack of infrastructure, wastewater, Waita Reservoirs, also a huge concern. Waita Reservoir is actually considered a high risk of breaching and there can be a dry day breach at any moment. There's no evacuation plan and there's no emergency alert system for residents. So, already for us neighbors, I live in this direct area, I will be negatively impacted, but that's also another huge concern. Due process has not been followed with the Ka Pa'akai Analysis. At the end of the day, there was not one community member that partook in this analysis. The fact that the Planning Commission and the Planning Director actually moved towards accepting this analysis is very, very wrong. And I think, like we just heard, we really need to start stepping up as a county and a Commission. You guys are opening up a can of worms here if this is approved, if a developer can come in here with a Ka Pa'akai Analysis that says, well, we reached out to a bunch of community members, but nobody responded, it's complete now, that doesn't work. The Planning Commission should have gone back to the developer and said, look, the company you used, maybe you should use a different one, hire a different. The County of Kaua'i can even do their own independent Ka Pa'akai Analysis. You have so many community members here today that are willing to give their input. So, I think when you see that they put out 36 notices and nobody responded, one response even mentioned

that they did not trust the company that was doing this analysis. So, we've got to gain back trust with the local community. People will partake in this analysis if they feel like their voice is going to be heard. And obviously that is not happening. The county has an obligation to abide by this Ka Pa'akai condition. I would also like to touch, many people mentioned, a huge issue with this Ka Pa'akai Analysis is that anybody with a pair of eyes on their head can see that there is formations of lava that is actually a cave that is directly next to the property here. So, directly next to this property that is proposed for development, we do have critical habitat for the Kōloa cave spider and the Kōloa cave sand hopper. Because this property is next to it, I would like to see that there is a condition added that they should have to consult with U.S. Fish and Wildlife. Also, just going through this packet in general, I was shocked to see the lack of things like traffic, the impact on the community drainage, like I mentioned. So, I think we need to deny or at least defer today until the community can have more of an input on this issue. I think there should be a condition that this developer, like other people mentioned, should hold a public meeting at the Kōloa Community Center and tell people what he's proposing. Just because you're proposing that you're going to build local housing, there is no guarantee that local people are going to buy that. Local people are broke and are living paycheck to paycheck. So, it's a great idea in general, but I would also like to suggest that...

Mr. Hull: Three minutes, Mr. Chair.

Ms. Okinaka: ...we lower the number of units and maybe add a condition that a certain number of units could actually be for rent, so that local families who can't afford to buy, could maybe rent instead. Mahalo.

Chair Ako: Thank you.

Mr. Hull: Next, we have Rupert Rowe.

Mr. Rupert Rowe: Good afternoon, Commissioners.

Chair Ako: Good afternoon.

Mr. Rowe: My name is Rupert Rowe. I'm a resident of Kōloa. We were the first kānakas that lived in Kōloa before all of these things are happening. I was a fireman in Kōloa. I take care the heiau down Po'ipū. There's a serious problem that is taking place right now. I met with the county, Public Works, two engineers, the Planning Director, the park, and Councilman Bernard Carvalho. The issue is, where is the drainage plan? The master drainage plan. As you have water moving down Kōloa Town flooded in 1982. Halloween night I was a fireman. The water was three feet high in Kōloa Town. When water moves down on the rocks, you cannot control the flow of the water. Now the heiau is going to be used as a detention basin. What part of our culture that is at jeopardy by the private sector development? To me, right now we live in an island that is overpopulated. You drive around, there's so much traffic. Where you live in an island that is 28 miles in a circle, and you cannot figure that there are problems. These are serious problems. So, as I come here to tell you, all my relatives, we live right across the project. We're not happy. You change the social fabric of a community to support a developer who is going to make money, walk away, leave us with the garbage. Not even possible to buy the property. So, all you Commissioners look deep inside yourself. I never did the Ka Pa'akai Report

is because it's nonsense to me. You take this information and you folks put them on the side so that the developer can have an opportunity that the community want to give input. We don't want to give any input. Our lives has been changed from (inaudible) to this very moment. As our people leave the island, we talk about we're going to make affordable housing affordable housing.

Mr. Hull: Three minutes, Mr. Chair.

Mr. Rowe: Affordable to who? I don't have time to come back, but I have more on my mind. But I thank you folks for your time.

Chair Ako: We, thank you.

Mr. Hull: Next, we have Carla Sapperstein.

Ms. Carla Sapperstein: Aloha, Commissioners. I think everything that was on my mind has been stated today. I've been in Kōloa for 23 years. I have grandchildren in Kōloa who ride their bikes to school, Kōloa school. I don't know if you've ever seen the pickup around 2:00 in the road and the mess that's there, that'll only get worse with more development. I've seen old Kōloa Town, if I can even say that it's old Kōloa Town anymore, it changed greatly. Will there ever be a bare piece of land in Kōloa anymore? The developers say, oh well, if we don't develop it, someone will. That doesn't have to be the way. So, I'm...the traffic which roundabouts won't correct, the flooding. My grandson tries to ride his bike to school, but some days I really worry about it because he goes over right on Waikomo Road and those kids walking home from school, it's just going to be worse. And duplexes, no more yards for children to grow up in. They lose touch with the 'aina. That's not the way of Kōloa, duplex apartments. So, that's what I wanted to say. Thank you.

Chair Ako: Thank you.

Mr. Hull: Next, we have Maria Hacker.

Ms. Maria Hacker: For the record, I'm Maria Hacker. Aloha. I'm reaching out because of my concerns regarding yet another proposed multifamily development in Kōloa. Kōloa is in the midst of uncontrolled development. I oppose this project. I'd like the Planning Commission to advise on whether the following requirements were completed for the proposed development. If not, it is a reasonable request that you defer any decisions until the developer has met all these requirements and conditions that are satisfied and met in order to be granted a permit. Hydrological assessment, drainage plan, traffic study and plan, EIS assessment and statement, adequate infrastructure, impact to endangered species, Ka Pa'akai Analysis. Kōloa has been experiencing record breaking major flood damage and as of recently, the April flood in 2024, that caused havoc and destruction and was very costly to many residents, particularly in Kōloa. I live in the Old Mill Camp. I've lived there 30 years. My car was submerged in water, washing machine knocked over, the whole fence around our property came down from the force of the water. It was like a...I looked out the window at 2:30 in the morning, the night the flood hit. It was like a torrent of waves. It wasn't just a calm, it was crazy. So, what's going on with all the diversion of water? I'm not sure. Kōloa Town was under water and entire neighborhoods in Kōloa lost their homes and cars. I wasn't the only one, it was many neighborhoods. The old mill

camp next to us. People lost their homes, were displaced. Also, in Kōloa and Po'ipū, people were trapped in their vehicles and had to get rescued, like in their big trucks and they couldn't get out, you know, they, the water was up to the window. People had to come and rescue them that night of that flood, just FYI. A perfect example of pushing development through without the proper drainage requirements being addressed is the Marriott Waiohai Beach Club in Po'ipū and the Sonesta in Līhu'e, where the parking lot is like a sinkhole and underwater every time there's any kind of rain. In closing, it is sad, it's a sad state of affairs that historic old Kōloa Town is being ruined by overdevelopment and lives of Kōloa Town residents impacted in a very negative way. Anyway, I've got photos, I don't know, nobody can see them. But this is the gate that came down around our property and our place underwater. Mahalo. Thank you.

Chair Ako: Thank you.

Mr. Hull: Next, we have Nakai'elua Villatora.

Ms. Nakai'elua Villatora: Aloha. (speaking in Hawaiian). Mahalo.

Chair Ako: Thank you.

Mr. Hull: We have no other individuals signed up to testify. If there's any individual that didn't sign up to testify and would like to testify, you can approach the microphone.

Ms. Nancy McMahon: Good afternoon, Commissioners, Chair.

Chair Ako: Good afternoon.

Ms. McMahon: I am Nancy McMahon. I live in Līhu'e, but I wanted to give you some background. For 18 years I lived at the end of Tapa Street on the cul-de-sac that is adjacent to this project. One of the things when I finally bought my lot from Grove Farm is, I had a reserved road right of way easement, and that easement I kept asking, I talked to the Baldwins and Grove Farm, was that Tapa Street supposed to get punched through when this parcel got developed so that it could straighten out and tie into Hapa? I don't see that in the plans at all, because if that's what's happening, that didn't happen. And the other concern that I have with that is there's a huge, as people have testified to the amount of runoff right behind there. The drainage from my subdivision used to drain right into Weliweli Road, added it would back up almost all the way to Hapa Street and people would get stopped. People joke that used to be a McMahon pond and people would get stuck in there, and I'd have people knocking my doors to get the tow trucks to help them out of there. So, there is a drainage issue in that area. There also, until recently, the parcel got maintained and cleared. There was a vegetation issue because there is a huge lava flow. It's a pahoehoe flow that goes around and where Weliweli turns in that area, it's a hard view corridor to see around. So, that also makes for traffic accidents. In addition, the congestion during church because of Saint Raphael's Church, people park all the way up on that road up to Weliweli. We, I used to have a little easement unknown through the Baldwin property there, and we kind of maintained it because people did park in our neighborhood to walk to the church when there was weddings and funeral services that were pretty big in that area. So, I do let you know there is traffic concerns, there is drainage runoff and concerns. And then somehow this parcel went from an R-6 zoning to a multifamily residences. If you look at the historical records for this area and the kuleana, there are three that are adjacent to this parcel. The (inaudible),

(inaudible) was one, he was a sheriff in Kōloa, but they were kula lands and house lots very small. Then it became a camp. Shinagawa Camp was in this area, so it spread out less density. And I think most people, the Baldwins themselves told me when I was their neighbors, when Peter, specifically when he was helping out, wanted to develop this parcel and the adjacent parcel into affordable housing. He wanted to help the community out, but he couldn't pen it out on paper. So, I understand why density sometimes has to go high in order to match the affordability. In the end, Peter had to develop his, the parcel next to me for his own family because his own kids came back to Hawai'i and they needed a place to live. So, I think the housing is still an issue, that if you looked at the Knudsen record, they still wanted to have housing. I just think the density could have been less. So, I'm recommending to the Commission to defer or extend the public hearing to allow the applicant to meet with the community and really analyze things and explain to them their pending...

Mr. Hull: Three minutes, Mr. Chair.

Ms. McMahon: ...penciling out how things could go and how to work things out better with the community. Thank you, Commissioners.

Chair Ako: Thank you.

Mr. Hull: Is there anyone who hasn't testified and would still like to testify? You may approach the microphone? If you could state your name for the record.

Ms. Sandra Aqui: Aloha, Commissioners. My name is Sandra Aqui. I wasn't going to testify, but earlier I just came to really listen because my house is further down Po'ipū Road, and we've been there for about 15 years. I'm originally from Kapa'a, Kealia side. My family's been there for over 100 years, so living down there, you know, in 2024, we had that bad storm, remember, in April and, you know, the water under my house because of the way my property sits, that water came down Kōloa Road or excuse me, Po'ipū Road and it comes right across my property. It's just the way the land is. And it goes right to Waikomo Stream. That water was 18 inches under my house that night, so we had about \$50,000 worth of damage. And I, you know, I've seen water come through there, but not like that before. So, I don't know if, you know, because of that village that was built, it's causing that because we just haven't lived in that area long enough. But I'm kind of hearing testimony from a lot of people that the water runoff is really bad. So, I just wanted to say, you know, let you know that there is somebody else down there that has had flooding. I'm further down Po'ipū Road, but I'm going to say that, you know, if those houses are already flooding now with the small development, well, it's not even small, but the development that's been happening now, that it's probably just going to get worse. So, thank you very much for your time.

Chair Ako: Thank you.

Mr. Hull: Is there anyone else that would like to testify on this agenda item that hasn't testified? You can state your name for the record please.

Ms. Ruth Cacayon Potts: Aloha. My name is Ruth Cacayon Potts and mahalo, a'ole 'ōlelo o wai, but I appreciate they come and speak in Hawaiian. I think we should have had some translator or someone on the side so that everybody else could understand. I'm originally from Kōloa. My

grandparents came from the Philippines to work in the plantation, so I've lived in Kōloa all my life. I had to move because I couldn't afford to live in Kōloa. I have five children. One actually lives in Kōloa and is impacted with the flooding, and it's only because the way the house is built back in the 60s. So, anytime you build and you add any structure other than the natural grass, dirt, it won't absorb any flooding. So, when the ground, when it floods, it'll just roll from where it started all the way down to Po'ipū. And it's not going to stop because there's nowhere it can be absorbed. Everything is cement. And that's what happens in big cities when you build hotels, when you build homes without the infrastructure. And I don't, I cannot see that for Kōloa. I used to live on the corner of Weliweli and Waikomo and it's all rocks. And that was from the volcano, from the mountains up in Po'ipū and above Kahili. There are flumes that Kiahuna, when Kiahuna Plantation was built, they were asked to build around them because of the indigenous, oh, I don't know if it's indigenous, but because of the endangered spiders and the, and I used to make fun of them, I'm sorry. When I used to go golf, I goes, oh, yeah, but anyway, that's besides the point. But that might be the same thing up there. And, you know, it's very fortunate, it's very fortunate that people can come to Hawai'i and buy land. But I think if you buy the land, you should consider the people living in the surrounding area. And if that land doesn't need to be developed, leave it alone. Leave it alone. Because the benefit what I think the developers are thinking, we going buy, we going build and going to benefit the county because they won't get the taxes from the people over there. Sometimes it's not worth it because we cannot afford. And I've always, always, I live in Kekaha now, and I always come back to Kōloa in the place I always go to, Sueoka Store, used to be Kawamoto, and then had the barbershop, but I always go and I look for the same people there. We should have been more fortunate. I stood next to this developer and management person from Knudsen Trust and speaking to nobody, but just out loud, they were a developer and some construction workers, and he said, and I quote, see, you guys should have built or bought in the 60s because maybe now you can sell them and make money. And I was like, that was not a thought, you know. So, I, I'm opposed to the building there.

Mr. Hull: Three minutes, Mr. Chair.

Ms. Potts: Thank you.

Chair Ako: Thank you.

Mr. Hull: Is anyone else who hasn't testified but would like to testify on this agenda item? Seeing none. And again, the same agenda item is following, so the Department would recommend closing the agency hearing and going into the second agenda item, which is this agenda item essentially, and then calling for a second round of testimony of those who testified, but in the (inaudible) the Department is recommended closing the agency hearing.

Chair Ako: We have a motion?

Ms. Cox: I move we close the agency hearing.

Mr. Ornellas: Second.

Chair Ako: We have a motion and a second to close the agency hearing. Voice vote or...

Mr. Hull: Up to you.

Chair Ako: We can take a voice vote on this. All those in favor say aye. Aye (unanimous voice vote). All those opposed. The motion is passed. 6:0. How are you guys feeling? We need a break or we...you want to plow through this thing? Okay, okay, we'll take a...no, I think we'll just take maybe a five-minute bathroom break and then we'll be right back.

The Commission went into recess at 1:25 p.m.
The Commission reconvened from recess at 1:39 p.m.

Mr. Hull: Alright, we're reconvening for

CLASS IV ZONING PERMIT (Z-IV-2026-7), USE PERMIT (U-2026-6) and SPECIAL PERMIT (SP- 2026-2) to allow construction of a new office facility and dormitory, baseyard operation, associated site improvements on a parcel situated on the western side of Puhi Road in Puhi, located at the terminus of Haleukana Street, approximately 800 feet southwest of the Puhi Road/Haleukana Street, Tax Map Key: (4) 3-3-018:005 (Por.) and affecting approximately 14 acres of a larger parcel = PACIFIC CONCRETE CUTTING & CORING, INC. [Director's Report Received, 12/23/2025].

Mr. Hull: The Commission has closed the agency hearing and is segueing into the new business portion of the agenda. It's essentially the same item but a separate agenda item. So additional testimony can be provided on this agenda item. We only have one person signed up to testify. We'll also call for additional testimony if anybody would like to further testify on this item. The one person who have signed up is Roslyn Cummings.

Ms. Barzilai: Ka'aina, do we have to read the item into the record?

Unknown Woman: She's outside, hold on.

Mr. Hull: You can.

Ms. Barzilai: No need. Okay. No need. Okay.

Mr. Hull: Roslyn Cummings?

Unknown Woman: She's coming.

Ms. Cummings: Just for the record, there's a delay outside. I just want to make sure we're speaking on Kōloa.

Mr. Hull: Correct.

Ms. Barzilai: Yes.

Ms. Cummings: Okay. On the record for the record, my name is Roslyn Cummings, and I want to put it on the record that when they built Kōloa Village Phase II, they pulled a banyan tree in the corner of Waikomo, and I believe that's Kōloa. But the four way. And what happened was when they pulled the tree that created an opening, so, when the workers went in, they saw that

there was a 30-foot void. So, there is definitely a cave system within that development area. So, I just want that on the record. And what will happen is there's going to be an infrastructure instability. And also, my concern is there's burials. So, when we talk about burials in a cave system, you cannot limit the burial to a TMK, you cannot limit the burial to property ownership, because that burial cave system expands all the way to Kōloa School, to Makahu'ena and into (inaudible), that's the only cave systems that you probably could still walk into. So, my concern is the collapsing of that cave infrastructure and the impact on our burials, and also the impact on our water system, because this is the same systems that feed the Kōloa (inaudible) system. So, that's what I wanted on the record. Mahalo.

Chair Ako: Thank you.

Mr. Hull: We have no other individuals signed up to testify, but if anybody would like to testify on this agenda, you may approach the microphone even if you've testified previously.

Unknown Woman: I want to say something.

Mr. Hull: If you can state your name for the record.

Ms. Cheryl Almeida: Do I have to touch this? My name is Cheryl Almeida. I live on Hapa Road, and we've been around the Bukoski's compound over 100 years. All of us. And I just want to say, if there's an emergency, if there's a fire or anything, we cannot get out. We cannot get out. If you develop on Hapa Road in that area, and if there's an emergency and you know, I just thinking about the Bukoski's because they, you know, up there in years and stuff and it would be really sad to see something happen to Kōloa Town because of the development, like Lahaina, you know, where the people couldn't get out. That's all I want to say. Thank you.

Chair Ako: Thank you.

Mr. Hull: Is there anyone else that would like to testify?

Ms. Souza: For the record again, Julie Souza. I neglected to say that in that project where the intention of doing these units are, the people in Shinagawa Camp have a water line that passes through that property. What will happen to them? That's my question. Have that been brought up? Thank you.

Mr. Hull: Any further testimony?

Ms. Kinneman: Tessie Kinneman, for the record, I'd like to use my previous testimony as testimony for this, this part of it, and still deny the application. Mahalo.

Mr. Kaiminaauao: Aloha, Kahakualii Kaiminaauao. I just wanted to add on, just want to make sure that we look at during construction phase, if approved noise ordinances. My wife and so does I'm sure many other people now since Covid do work at home. So, with the drilling and hammer impacts that might impact the livelihood around us and us doing our jobs at home. So, my ask is that we look into that. Also, part of that traffic study, I do think that not only that specific surrounding area get looked at, also the entrance into Kōloa Town. Specific example coming from Kōloa Ballpark right in front of Sueoka, that intersection, there is pretty bad

already, it's super narrow. I usually typically take a left there to go home, but unfortunately now with how busy it is, I have to take a right to go over through the Chevron gas station side, Kōloa School. If not, I get stuck at that stop sign for a long period of time if traffic is not cleared out. So, something we want to look at as well too. Thank you. Appreciate your time.

Chair Ako: Thank you.

Mr. Hull: Any other?

Ms. Kagawa: Aloha, Kanani Kagawa for the record. To continue on with my testimony in the sense that I believe the project should be deferred until further information is gathered for the Commission for consideration. One issue that came up was the Ka Pa'akai Analysis, and very little was addressed on previous inhabitants and the kuleana landowners surrounding the project parcel. One thing to take note of, and it's in several deeds, and I'm familiar with this in this particular warranty deed, it states the stipulation and decree dated June 7, 1951, filed in the Circuit Court of the Fifth State of Hawai'i, Equity No. 144, filed as Land Court Document No. 135050, to receive water from the konohiki of the ahupua'a of Kōloa in a constant stream in the amount of 45,000 gallons per day. So, you know, when I was doing some stuff with our nonprofit, we took that as that the project site when inactive agriculture and when traditional practices were being utilized, 45,000 gallons of water per day is required there. So, if traditional practices such as lo'i farming or AG was to, it never goes away, it was always there, anybody returns who traditionally the konohiki which Waita and the landowners would have to deliver, it's a requirement and you can turn to the decree, who particularly is the konohiki would have to provide 45,000 gallons of water per day. And that was missed in the Ka Pa'akai Analysis, just in general sense of what the site was used for. So, when you say there's no impact of traditional rights, just because it hasn't been used for farming in the last hundred years, it doesn't mean it used to not have water delivered to that project site. So, that was something really important. And it's on the warranty deed and you can look at that. The last two kind of main things that I wanted to ask, and this was just something that I knew because I worked on projects in Kōloa and in construction. Development is a large contributor to the landfill waste at Kekaha landfill, and there is not a waste management plan. So, some projects have put in place the county and the Commission have put in place that, for example, and this is a condition I would implore that we look at for all developments now, that the project shall be serviced by private solid waste collection, which is representative. A construction waste diversion plan shall be developed for the project for diversions of at least 80% of the waste generated by the project to divert from Kekaha landfill, and that we plan should be approved by the Waste Management Division. So, it's, you know, part of the impact is not only what we're having in a rural area, it's the construction is, I want to say, the top three contributors of the landfill waste that we're dealing with. So, it's something like working with materials or working to recycle. So, I'm looking it as that impact the, so that was it. We talked about the schools...

Mr. Hull: Three minutes Mister Chair.

Ms. Kagawa: ...And the last thing is that the approval of construction plans and the site plan should be after sidewalks and road, the infrastructure has been put in. And that's something that I, you know, I would always, we want the sidewalks and the things meant for the public use, which is not represented in the application. So, the application, sorry, I'm going over, but just as

a matter of why this has been so difficult for me, it lacks, according to Section 8-10.4, the administrative rules or the Project Development Use Permit, it lacks the...

Mr. Hull: Four minutes, Mr. Chair.

Ms. Kagawa: ...congestion and drainage ways all the property could be divided. There's no schedule for development, architectural drawings, just basic things of section. Excuse me. Section 8-10.4, of the Project Development Use Permits, A through G, that should be included in the permit for consideration for the Commission.

Chair Ako: Thank you, Ms. Kagawa.

Ms. Kagawa: Thank you guys. Appreciate it. Have a good day.

Mr. Hull: Is there any further testimony from any member of the public?

Ms. Di Pietro: Aloha. Jeri Di Pietro for the record. I'd just like to add in, as many people have addressed traffic, circulation and evacuation of the development presently and in the future, we really need to have that northwestern leg of the bypass complete. It's been way too long, and I worry every day when I go down there about evacuation, you know, day and night. Tsunami alerts, anything, you know, we don't really have anything in place, I've talked to the evacuation, the HI-EMA folks on O'ahu, and we really want to see the place have be safe for everyone and thoughtfully plan. So, thank you again for your time.

Chair Ako: Thank you.

Mr. Hull: Any other members of the public would like to testify on this item? Seeing none, I'll turn over to Dale and Kristen to give a brief summary of the preliminary evaluation, and then we'll ask the applicant to come up. So, turn over to Dale to give a brief summary of the preliminary evaluation. And then we can ask the applicant to step up and provide any presentation that they may have.

Mr. Cua: Okay. Just summarizing the Director's Report.

Mr. Cua read the Summary, Project Data, Project Description and Use, Additional Findings, Preliminary Evaluation, and Preliminary Conclusion sections of the Director's Report for the record (on file with the Planning Department).

Chair Ako: Questions for the Department at this time? No. If not, do we have a representative from the applicant?

Mr. Ian Jung: All right. Good afternoon, Chair and members of the Commission. Good afternoon. Ian Jung on behalf of SK Investors. With me is it's, principal Mike Serpa, who some of you may have recalled from Kōloa Village. So, I think before we jump into our presentation, which I think we got to let me share on the Zoom link.

Mr. Hull: Shan, can you let him share?

Mr. Jung: I just kind of want to, kind of explain to the Commission how we how we got here in terms of the Project Development Use Permit. So, I think what started this, this dialog for this particular project was the South Kaua'i Community Plan. And I think unfortunately, I think some of the residents are around this particular property, were unaware that this property had been rezoned with special planning areas and the special planning areas that this particular property rezoned to were the village, T3 Village Edge and T3 Village Neighborhood. So, with these special planning areas come enhanced density potential as well as protocol for streetscape and design. So, most projects I would agree, (inaudible), we're going to be triggering a full traffic study and full traffic design program. But what was built into the South Kaua'i Community Code was not just the building form, but also the streetscape that accompanies that building form to kind of create the neighborhood. So, the South Kaua'i Community Plan speaks volumes in terms of what is allowed and what is permissible for traffic. One of the things in our initial dialogs with the engineering division is you can have one entry per road. So, that's why the three entries that we're going to be showing on the screen here show how you can access Hapa Road to the South, Weliweli Road and then Waikomo Road, if we need to deviate from that and we can work with the engineering division, we can work through that. But that's the initial protocol we got from engineering Division. So, jumping into the South Kaua'i Community Plan, one of the bigger issues in the South Kaua'i Community Plan was the need for housing. The 2018 General Plan Update specifically called out for Kōloa and Līhu'e to have infill development. And it's a question of what is development. A lot of people look at development as speculative type, transient vacation rental type, housing or projects in outside of the Kōloa Town. This project is a gap housing project that is for what we all refer to in the housing industry as the missing middle, right. For those who technically may not qualify for affordable housing at the 80% AMI, but could qualify for a higher level, or even not even qualify based on the size of their family. So, this missing middle is something that the legislature in the last two sessions, as well as the South Kaua'i Community Plan projections, which comes through this body and also through the council, have identified the significant need for. So, are we asking for concessions? Yes. But is the need needed? Absolutely. Because this type of housing, we could put 35 single family residents there, but rather the developer is looking at how can we maximize the density within the footprint that would be allowed in those individual units. Because when you look at the form-based code, it's form and character, the form of these particular buildings, that's where we ask for the deviation away from a duplex to a quad plex and 8-Plex. So, within those quadplexes and 8-Plexes, we can maximize the density that would be allowable for the project to make more housing available. And I'm going to say the word, local residents, because if you look at Mr. Serpa's Kōloa Village project, 85% have an 808 number affixed to it. Whether or not we know those are local residents or not, we can't fully tell you whether it is, but there are people who are looking at purchasing those particular properties. So, from a form and character standpoint, if we were to maximize the density using a cottage court or non-duplex style, you would eliminate the potential for open space on that property, right. So, that property is constrained by its size and its shape in terms of its width. So, there are building a building setback, street frontage setbacks and then the streetscapes. To have the streetscapes, you know, I know the traffic issues seem to be a big issue, but they will be improved with sidewalks. And I worked with Mr. Serpa on the Kōloa Village project, and what we did with those sidewalks, is we had to work through the engineering division to identify the plan for certain dedications and landscape maintenance requirements. So, there are protocols set in the code that doesn't necessarily come outside of this particular permit application, because this particular permit application is the conceptual

approval for the use by this body. And then once we get through this phase, then additional monies can be spent on fine tuning the drainage to make sure drainage doesn't impact downstream owners. And then working through the traffic components based on the grading plan. So, the 2018 General Plan identified a deficit of 1,400 homes that are currently needed, well, needed as of 2018, the projected to 2035 is a need for 9,000 units. The potential for these 35 structures to produce 164 units for the quote, unquote missing middle is an important component to get to that number by 2035. So, I'll leave it at that and we can...Mr. Serpa is going to go through the project components.

Ms. Streufert: Can I ask you a question before (inaudible)?

Mr. Jung: Sure.

Ms. Streufert: Are you presenting anything?

Mr. Jung: We will, but we'll be happy to answer any questions.

Ms. Streufert: No, I meant, I don't want to be in anybody's view.

Mr. Mike Serpa: Hi folks. My name is Mike Serpa and I am the developer of Kōloa Village, which is across the street from the subject property that we're talking about. Just a little bit about Kōloa Village, that's what you're looking at now, and kind of the history of how we got there. When I bought the 5.38 acres of Kōloa Village, it had a parking lot that was a two-story concrete structure, and it was primarily a two-story office building on the retail side and the residential side, what you're looking at now was 17 duet homes. So, there were 34 homes. That's what was there. And when I went through the analysis of those 34 homes, of all the costs and everything, and what I thought they'd have to sell at, it would have been somewhere in the neighborhood of 1.5 to \$1.7 million, because they were about 2,400 to 2,800 square feet. So, I asked myself the question as I stood there feeling a massive responsibility to do something special because Kōloa Town is special. The retail was historic recreation. We've got a lot of feedback, pretty popular that it fits into Kōloa Town and the retail looks good. Looks like it belongs there. But I asked myself who would buy the residential? Probably not too many locals going to spend just shy of \$2 million to live in a duet home in Kōloa Town, so the mostly mainlanders would buy those homes. And I didn't like the plan. So, I approached the county and I said, hey, look, what if I took those building footprints and instead of two units in each one, I did four. It would cut the sale prices by two thirds, and it would make them available and by two thirds what those prices mean, or somewhere in the high fours. This is going back to 2018, 19, you know, high fours to 500,000, up to maybe 650 to 700,000. I'd rather do that than 1.7 or 1.8 million. And I think there would be more locals that would buy them. I didn't have a proven theory, I just, that was my theory. The county agreed, and we went forward with that plan. And today I can show you the sales contracts. I can show you who the people are, but we are somewhere between 70, 75, 80% local. And when I say local, I don't mean Kaua'i local, I mean south side Kaua'i. So, I can show you those folks. We have a family moving down from Ōma'o. They're selling their family home. They're helping their daughter with the down payment. Their daughter makes plenty of income to make the mortgage payment. And there's two homes going there. We have 82-year old Jerry Vigil, who is a, you know, over 40-year resident of Kaua'i. He's been renting a home for the last 25 years. He, his owner, sold that home for \$4.5 million. He bought one of the one

bedrooms on the ground level for he and his wife. Gap housing means Jerry couldn't have qualified for affordable housing, but he needed a home, and he certainly couldn't afford over \$1 million, which is what you would pay on the south side for something decent to live in. So, that's what gap housing is. It's for that middle. It's for those people that don't qualify. Petite Sweets, one of my tenants at Kōloa Village, they're all local tenants at Kōloa Village Retail. She was living in the Po'ipū affordable housing community. She started Petite Sweets. Now all her income is digital. It's verifiable and she made \$4,000 too much. She gets booted out of her home on Po'ipū Road, and she is now in a studio apartment at Kōloa Village. And those studio apartments for a studio apartment on Kaua'i, affordable is \$1,800 and some change per month. Those rent from \$1,300, we rent them from \$1,300 to about \$1,500. I live in one. It's 350 square feet. That is where I live. People are always surprised by that. That is where I live. At Kōloa Village in a studio apartment. So, if you think that, there's a reason that I'm living in a studio apartment, if I had a whole bunch of extra money, I probably wouldn't be, but I lived there. So, anybody that is interested and wants to spend the time to see the financials on these projects, a lot of developers won't show them to you. They either won't show them to you because they look like idiots, and why would they take those risks? Or they're making too much money. That's why they won't show them to you. I am happy to show them to you. So, this project right here at Kōloa Village, selling primarily supermajorities to locals, we have a 600-person interest list that didn't get a home there. And the majority of that list are 808 area codes. So, I propose this next project. I am an infill developer both on the mainland and here. I go to town cores right in the middle of town. And the reason that I do that is because the infrastructure is already there. Here, we've already developed the sewer capacity. The Department of Water will tell you they've got a six inch, an eight inch, and a 12-inch water line that run right by this. The roads that we, as part of the project conditions for Kōloa Village that we developed and contributed ten-foot sidewalks, the standard was five. The infrastructure is already there. That's why I developed core, generally in core, and I'm not saying Kaua'i has to do this. I'm not saying it's right for Kōloa Town, but generally in town cores that's where you put your density. That's where you try to be efficient with your land use. And then I pick parcels that are developed all the way around the parcel. So, this isn't expanding a town footprint. This isn't what I call in my business, greenfield development. This is a missing donut in the middle of a town. When it comes to offering more gap housing, I met with Adam Roversi, the Housing Director. Adam's done a fantastic job of creating affordable housing projects. This is my own philosophy. You can agree with me or disagree. I want to create housing for people that if they put their hard-earned money into an investment, they live there for 10 or 15 years. When they turn around and sell that, they get the appreciation. The appreciation doesn't go back to the government, they get it. And I feel like that is how you help communities and that is how you help downtowns, is you give homeownership opportunities to people that are locked into renting for the rest of their lives. Once they get into those communities, it's very hard for them to get out, because when they do move out, anybody that works for wages knows, it is very hard to save up enough money till you're 40 or 50 or older like me, it's very hard to save money through your lifetime. Life is expensive. Kids are expensive. So, that is why I'm proposing gap housing. And I think it is the most efficient use of the land by a long ways. Now, I could go back to my thought process for Kōloa Village. I have these boxes that you see on the page, right, I could do the same thing at South Kōloa Town. We have 35 buildings. Can you flip to the next one? So that's downtown Kōloa there, you see that's where Kōloa Village is. This Kōloa Town project is directly across the street, and the red outline. Flip to the next one. Okay. So, you see all the boxes and the numbers on them represent how

many units are in each box, okay. So, if I didn't do the higher density, if we weren't in the price range of 500,000 to 700,000, high 600,000's, if we weren't in that price range, and I'm saying here publicly, so I really can't bait and switch too well, right. I'm going to get run out of town if I do that, they're going to run me out of my studio apartment. So, and this is where I hope to live. I'm moving from the studio, thankfully, to a one bedroom at Kōloa Village. Super proud of that. My daughter's going to live there too. If I took each of those boxes and I put a single-family detached home in each of those boxes, the footprint of that single family home would provide a 2,400 to a 3,200 square foot home. On the 8-Plexes, it would be a very large home, so the prices of those homes would be mid 2 million to \$3 million. For me, from a business standpoint, that's a dumb decision. How many are you going to sell of those and how fast? For the county of Kaua'i and local Kōloa, who's going to buy them? Not Kaua'i residents. So, is that a better plan? I don't think so. I don't think it's a better plan. So, I will always be a visitor on Kaua'i. I'll always be a guest. I will never claim that, you know, somebody owes me anything. I will always, constantly be earning my right to be here. I'm the president of my local canoe club, I love it. I have more friends on the island of Kaua'i than I have on the rest of the planet combined. I love it here, but I have to continue to earn it. So, I'm not here trying to force this on anyone and what I would very much like to do, it's what I did with Kōloa Village, when I got Kōloa Village by the way, it already had a Class IV Permit. I didn't have to be here. I didn't have to do any of this. And if I go to the single-family approach, I don't have to, it's not a PDU. I just go with the zoning that's there. I just process it. It's a Class III Permit. Not too many people get a bite of the apple at that. I just move it forward. I'm not doing that. I'm not doing that. I'd like to have just like I did with Kōloa Village, it already had the Class IV. We were already past this hearing, right. So, if by the stroke and grace of God we got through this hearing, this is what would happen. We would go to the Kōloa Community Center and I would do those same. The people that are here today, look, I've taken arrows through my career. I've taken a lot of criticism. I am not, but I've done a lot of good things and you can see them. This doesn't hurt my feelings. When people get up and testify like they are, I'm grateful. I am grateful these people are taking their time to come here today and to give their testimony. And you know what I'm doing? Taking notes. I'm writing it all down. Have we done our homework? Is every I dotted t crossed, so and, I can go through each area. But at the top of the list is Community Center Kōloa. I would like to know who would like to meet me. I'll meet you individually if you want to talk, I'll meet you in a group. We'll talk about the whole thing. I'll show you whatever you want to see. And I will make changes to the project. I will, and you're talking to the person that would make that commitment. Nobody else other than me can make that commitment. KCC, if you're in Līhu'e or you're East, let's sit down at KCC or here or anywhere. But I am open to that. You have a developer at the table that is willing to listen, to change, to adapt. And I'm not a developer taking off and leaving. I live here and yeah, I've spent most of my retirement on these projects, so I can't really afford to go anywhere else either. The bridge is down behind me. I'm here. This is where I live. This is where I'll be. My daughter's moving here actually this week. Happy with that. So, there are a lot of areas people went through. I've already taken a lot of airtime. Obviously, this is my passion, this is my career. I take it very personally, right. If somebody is unhappy with me or the project, I want to hear it. What is it? What do we need to do to make it better? Each of the areas I took notes that everybody mentioned. I can go through each of them, but I've kind of taken up a lot of airtime already. So, if it's about the project, open to questions. I would like to get back on and speak about traffic, archeological, school, high density versus low density, drainage, that sort of stuff, sidewalks. Yes, we have sidewalks, all of those things. I can answer questions and I would invite

the questions. So, if somebody doesn't ask the question in one particular area, I heard it from the community. I'm happy to speak to that too.

Chair Ako: Thank you. Questions? I think I would ask this, I think your plan is a good plan. We're talking about gap housing for the islands. We need gap housing for our, for the islands, you know, our island here. Because if not, the other answer would be, well, let's just send our kids off to the mainland. I mean, if we can't have those gap housing here, we're dealing with education. I mean, we can't get teachers here, police officers here because of housing. So, you know, I think hitting that gap, that gap group is really good. At the same time, when I'm here today, the one thing I keep on hearing from everybody here is the word deferral, deferral, deferral. So, my question really is, yeah, what attempts have you made to meet with the people of Kōloa prior to putting this plan together? Because these are guys that are going to be living there, right?

Mr. Serpa: Yeah, yeah. So, in my career I'm very careful. I don't want anybody to vote for my project because they like me or because or not vote because they don't like me. So, I typically, I try to meet with community leaders, influential people that are vested and invested. Some of the folks here today that spoke, I met with them. It's one meeting, right. It takes an iterative conversations to really get all the information out. So, I have had that outreach. But the benefit of today for me, and I hope for the community is, a lot of the people that want to participate and have a voice are here. So, now is when that happens. Then I go to the community center, I go to KCC and sit down and really get the ideas. But I do think we know the topics, we know the issues.

Chair Ako: And I think for me, I really appreciate the fact that you met with the influential people, you know, to get this going. But what I'm hearing is the residents out here want to hear, yeah, they want a forum up there where you'd be able to explain to them, as opposed to merely more than us, about what this project is going to look like. Would that be something that you would be open to?

Mr. Serpa: Absolutely. Absolutely.

Chair Ako: Okay. Thank you. Other questions?

Mr. DeGracia: Real quick. I'm not sure if I caught that. But did we answer the question whether or not you're willing to defer this item as the community has very loudly spoken, they're seeking some sort of deferral on this agenda item?

Mr. Serpa: Yeah. So, let me say to that I'm willing to do whatever it is you folks think is best. I mean, you're the decision makers for planning for the community. I will tell you, for me, I am not, I'm not super independently wealthy. A lot of people think I am when they look from the outside. Oh, yeah. Sure, sure, sure, right. That's not, that's not the case. When I build projects, I have to have a certain amount of cash into them. And I'm the controller of the project. If you get all these investors, you lose control. I don't do that, right. So, the cash that I do have, I put it into the projects and its debt. And once you tee the debt up the financing, that is the hardest part about my business. Once you tee that financing up and it's ready to go, you need to move on that on a certain timeline. So, would I be willing to defer? Yes. However, I pay attention and I see

that some of the seats on the Planning Commission are going to be changing. And I worry about forum issues, right. So, you start to defer and what happens when you go too far, and we've heard, I've got the issues and I want, I want to walk through them. I just was getting on with my words. So, I thought I would give a chance, but so I would, but what I don't want to do is, I don't want to continue with this type of project if everybody thinks it's a bad idea and then it gets what's it called, intervenor status, and then it just keeps going into the continuum. I won't, I won't do that, I can't, I can't afford to do that. So, I would, I'd flip the plan. I'd go to something that I really didn't, I didn't need a PDU for, and I could just move, I could move forward with the project. That's not what's best for the community. That's not what I'm hearing is best for the community. You know the issues...yes, the answer is yes. You know, unless somebody else got another question. I was going to hit some of the highlights that some of the folks spoke about. Maybe they want answers too.

Chair Ako: Okay. So, I guess if I, oh, I'm sorry, Commissioner Ornellas.

Mr. Ornellas: No, continue your thought.

Chair Ako: Yeah. No. So, I guess what I'm hearing is that the idea of deferring this and meeting with the community prior to the approval of this application would be something that you would be willing to entertain.

Mr. Serpa: If that's the will of the Commission, I would be willing to do that. I, what I would prefer is what I went through at Kōloa Village, which was we had a Class IV Permit, it wasn't deferred and I got to do it all. I got to go through, you know, and I was going to talk a little bit more about design, but I got to go through the drainage and the archeological and all of the things and the community meetings. We got to do that because even if we went forward today, we have a year or more of that, of that work, of design changes, of adjustments, of community meetings, all of that. It's the same thing I did at Kōloa Village. And there are folks that spoke today that were in those meetings, those Kōloa Village meetings, and they know that's my process and that's what I do.

Chair Ako: Commissioner.

Mr. Ornellas: In all fairness to the applicant, we heard a lot of testimony today, but I went through the written testimony that was submitted, and there were a lot of people writing in in favor of the project. I would say looking at the written testimony, it was about 50/50. Now, in an ideal world, personally, I'd like to see a nice 8,000 square foot lot, maybe a little additional unit for the aging parents. Unfortunately, that's not the reality today. You know, I'd have a hard time living in a unit like this. I've always lived in a nice big spread, but I see the necessity of it, you know, and we get berated here because of all of the high-end units being built on the south side. I mean, you know, you can attest to that. He's a target himself when it comes to that. So, when we finally do something for the local folks or try to do it, then we also get pushed back. So, either way, right.

Mr. Jung: I think there is there is one topic I'd like to discuss because the issue of the Ka Pa'akai, so one was done for this particular property. There was an archeological investigation in 2007 on this particular property. One site was identified. I know it's been characterized as a different

thing in certain testimony, but what we have from our consultant is that it was an agricultural type wall. And here's the thing, we have to go through the SHPD process, whether or not it's through the 6E42 process or any other process, and they will write out what's going to be required for any type of mitigation commitments. So, in evaluating the property, what we look at from relying on our consultants, we're hearing the community now that certain consultants are better than others, but we have to rely on what our consultant tells us because they went out and did the work. I think it's reasonable to look at other issues such as, you know, identifying whether or not there's any kind of tunnels or any caves or anything in there and that could be explored. But that part comes with the grading plan as well. So, this part of it is for the conceptual use and design elements. The siting, the design characteristics can all be modified slightly, either with a visit back to you or through the Planning Department, or through requirements from Department of Public Works, Engineering Division and even Department of Health based on their approval of certain drainage requirements. So, at this phase, it's still very conceptual, but as it goes through the process, you'll still have mandated by law requirements that the developer has to abide by.

Ms. Streufert: One of the issues that we've heard or several of the issues that we've heard, I think are mitigatable, like the drainage as well as the potentially the lava tubes and restoration of them, or at least not destroying them. It's right next to Waikomo Stream.

Mr. Serpa: Yeah.

Ms. Streufert: And so, although your report indicates that it's not close to any water, it's really close to Waikomo Stream. Is there any, are you willing to work with the community to try to find solutions to this that will not just meet the requirements, the state requirements, but also potentially exceed them so that some of their concerns on water and drainage can be at least addressed?

Mr. Serpa: Absolutely. And one of the things that I learned from talking with neighbors who have lived there for so many years is, where are the hot spots? Where are the, where's the build up? Now, if you go back to the Kōloa Village plan up at the top, so at Kōloa Village, you see the image down in the lower left, right, and you see the parking lot areas, same thing on the retail side. So, the background that I come from, the development background that I come from, the rule that we use on drainage is nothing leaves your site. Even if you have people above you dumping on you, start...nothing leaves your site. The way you do that, with this project...turn to the land plan. So, the way you do it with this project, you see the long spine road that we have. You put retention and detention under that road. It's expensive. But what happens, I have learned just from living on property and watching drainage, the lava tubes and sites around here do drain amazingly efficiently. It's just when you have runoff. So, we would use that whole spine road as retention and detention. And you see the green areas all through the site, to the eye when you drive through there it would look like parks, but they would have a 1-to-2-foot depression in them. They're also retention. So, the whole site, including the road, accumulates the water. So, that is, that is what we're working off, and that's the plan that we have now. The site about the middle where Weliweli Road turns into Māhā'ulepū, on the Māhā'ulepū side where that driveway is right about there is where the drainage goes down toward Hapa Road.

Ms. Streufert: Okay. Are you talking about here?

Mr. Serpa: Thank you. If I had a pointer, you're my, you're my pointer. Thank you. Yeah. Right about there is where the way it would be designed is the drainage from there would go down toward Hapa. And you see the four units at the bottom, the four buildings right there. So, what my civil engineer just told me is he said, hey, you know, so what would happen is we might have to put a pipe across Hapa Road to take the drainage down there, across the road. I said, no, don't want to do that. Just take out one of those buildings and you make that area bigger, that retention area bigger. I don't want to dump any drainage on a neighbor. I don't want to cross Hapa Road. I don't want to do any of that. So, that is what we'll do. I've already decided we'll take one of those out.

Ms. Streufert: So, these are just for clarification. You have a D on it, those are your detention ponds?

Mr. Jung: No duplexes.

Ms. Streufert: Duplexes.

Mr. Serpa: Yeah. Those are, those are duplexes. Yeah. So, that's how the drainage works conceptually right now Ian and I appreciate pointing out, this is a more conceptual review. We have, we're digging in, we just got a response back from the Ka Pa'akai Analysis from the state that wants more information on a lot of different areas. We got to send it to them. We're evaluating our consultant, cultural resources. I've met some locals that have told me, I don't think they're the best consultant. All right. Well, who would be another good one? That's what happens when the community, we start to talk, is I start to learn, but I can't know unless somebody tells me.

Chair Ako: Maybe a question for the department. Yeah. I think one of our options today, and I'm not suggesting that this is going to be a, this way or that way, but what about options is that we approve the permit as is today. As discussions continue, how much leeway or how much change can there be should other issues come up? Because I'm going to assume that if we, if we adopt it today and we're adopting whatever the plan is that has come over. As changes come up, those changes can be made.

Mr. Hull: In the way the standard conditions read is that there is some ministerial review of alterations that aren't substantial in nature. Generally speaking, if there's, say, movement of buildings to accommodate drainage issues, community concerns, archeological preserves as identified by State Historic Preservation Division, any one of those or others that wouldn't necessitate necessarily coming back to the Commission. Generally speaking, if there's going to be an increase in footprint and an increase in impervious surface, that certainly would require coming back to the Commission.

Chair Ako: Okay.

Mr. Hull: So, as that condition is generally administered.

Mr. Serpa: Just some ancillary comments, if I may, I didn't get deep into this project, but we've done economic analysis. This creates almost a thousand jobs. What I wanted to do today is I

wanted to hear from the community. I didn't want to, you know, we're union, we use union labor only, right. And the unions will, you know, they'll come down, bodies will come down. And I've got a lot of local people, business owners, people like that that are super supportive for the, the, the effect it will have on their businesses and stuff like that. I asked all of them to stay home. Just let me go there. Let me get all the feedback that I could get. But just so you know, some of the benefits, this is almost 1,000 jobs in the community. There has been, and when I bought the property, there was the two archeological analyzes that now we're going to find another third party, archeological firm to evaluate those, because I've been told, you need somebody better or different. Great, fine. Who is that? Tell me who it is. So, there was a traffic analysis done, met with Public Works several times on the driveways and where they should come out. There's the one on Hapa Road, and if you look at that one in particular, because there's concern on Hapa Road, that driveway right there, you have that segment that it's most efficient for them to use that driveway, and they're likely to use that driveway. I would also say that driveway was specifically put there too, by me, because there are residents up at the top of that off the property that have been using that as a driveway for a long time. And so, we put that there. They can still access their homes.

Mr. Jung: (Inaudible).

Mr. Serpa: What's that?

Mr. Jung: Right here where the pointer is.

Mr. Serpa: Right there is the driveway for them. There was a water line mentioned. There is a water line that runs right over the top of the land from the Weliweli Road. It's like closer to the corner, right up to the top. There's a six plex building up there and eight homes that that water line feeds. It was very hard to figure out who owned it. The Department of Water, their records weren't great on it. Met with the owners of that. Where I can help people, I will help them. They can't go without water. We will, we will put that, we will, they will not go without water. We will put that in a pipe, we will give them an easement for that line and we will reconnect it right where it's connected. I would ask that people look at this and look at me as an opportunity to accomplish some of the things, fix some of the problems in this area. But I do believe this is from a lot of work over the last 2 or 3 years with planning, with Department of Public Works, with, not as much with the community, now is when that starts, right, give us feedback on this. Where are the problems for the neighbors that live around there? Give us the chance to go do this and do more local gap housing. If it stretches out too long, I lose my financing and I can't go forward with it. But that's not to say I won't go forward with a project. It just won't be that.

Ms. Streufert: Could I ask a question? I'm sorry. This is not in a VDR or VDA.

Mr. Serpa: No, no, it's not VDA.

Ms. Streufert: And this would not like to see this become a TVR or anything like that. If a condition were put in there, although we know that it's not in a VDA and we know that you cannot do that. You are the builder right now or the developer, at some point in time it will turn over. I'd like to have that in writing in the, in the covenants, if you will, but within this, this document of the condition that...because we've done that before on other places, but at least to

ensure that you understand and everybody else who buys into it understands that this is not for visitors, this is for the residents or for long term rentals, but not for transient rentals.

Mr. Serpa: Yeah, 100%. We have that at Kōloa Village.

Ms. Streufert: Okay.

Mr. Serpa: Long-term rentals only.

Ms. Streufert: So, if we put that in as another condition, that would not be...

Mr. Serpa: Absolutely. A lot, a lot of these I think would be conditions.

Ms. Streufert: Okay. Thank you.

Ms. Cox: So, I have two questions or maybe it's comments and I am not at all meaning to be insulting, but we have worked with some developers who say great things and don't necessarily come through with the great things. And so I'm wondering, the first thing is, is for you, is I'm wondering if we deferred, but we had to deferral very short so that you would have a chance to talk to the community and have them have a chance to talk to you about something, because what, some of the issues are pretty serious, and I understand that you're saying that you're going to take care of them, and I want to believe that. But I'd feel better about it if there was the chance to actually have the conversation. So, I'm wondering if, if we could say it's a short deferral, you could live with that, it wouldn't or wouldn't do something with your financing. I mean, you could meet with them next week at the community center or something.

Mr. Serpa: Yeah. Yes, to the degree that people would be willing to meet, I yeah, I would be more than happy to do that.

Ms. Cox: Okay. And the other is maybe a question more for the department. And that is, I know you mentioned something about the long list of people with 808 numbers. I know a bunch of people who live on the mainland that have 808 numbers. And so, I'm actually just wondering, is there there's no way that we can actually say that you have to be a resident to buy here. Because there's no...is there a way to do something? I mean, I appreciate the fact that you're saying that 75% or 80%...

Mr. Jung: I'll speak to that because that was my quote.

Ms. Cox: Okay, great. Okay.

Mr. Jung: So, that's a reference point, right, where we know someone. There are equal opportunity housing policies that you have and laws you have to comply with to not discriminate over who can purchase a home. So, there are those federal laws and subsequently state laws that prohibit special treatment. But if we can figure out a way to say who's who from a local standpoint with addresses, we can certainly try and get that information beyond just a telephone number.

Ms. Cox: I actually have a, I guess I really do have a question now for the department then, because I thought with the, when we did the plantation zoning that they were going to, their first, first priority was going to be people who have worked for the plantation. Second was going to be people who were retired, I think, for the plantation. And third was people on Kaua'i that are in similar kinds of things. So, they seem to be able to do something. No, they can't? Can you explain how it works.

Mr. Hull: So, that condition was proposed at Commission via the ordinance that went up to the County Council for the plantation camp...

Ms. Cox: Right.

Mr. Hull: ...designations. One of the owners came back eventually and said, we are providing fully affordable homes to the camp. Any attempt to restructure on who you, who you have to rent to is going to severely limit the viability of the program.

Ms. Cox: Okay.

Mr. Hull: And so, ultimately that aspect was removed from the Plantation Camp Ordinance.

Ms. Cox: Okay, okay.

Mr. Hull: I mean, to a certain degree that (inaudible) has 100%, it's G&R, (inaudible) 100% local families living in those units. But the imposition of that from a government regulatory standpoint became particularly problematic from an implementation standpoint for the housing developer, if you will.

Ms. Cox: Okay.

Mr. Serpa: The other thing I would just add is while I'm always going to prioritize in favor of collaboration and conversation, I don't want to sit here and say, I would rather move forward because when you say, a lot of developers are hot air, they're all talk, which I would agree with you most are. The flip side of that is that's why you have conditions of the project, right, you put it in writing. I was talking to one of the folks that made a comment today, and she made a comment, and she's 100% right, which is, hey, I like you fine, I believe what you're, you know, but I want it in writing.

Ms. Cox: Right.

Mr. Serpa: Right. That's what conditions are for. That's what project conditions are for. So, the Ka Pa'akai Analysis, like one example of one, would we have a cultural monitor on site during site construction? 100%, because I sure as heck don't want to come across something culturally significant that wasn't on any studies. I don't know what to do. I need a cultural monitor there to say, I'll tell you what to do, here's what you do. So, you would condition the project. You need to have a cultural monitor on site. So, it's that sort of stuff. Yeah. So, I would just condition the project and move forward. Let me do the community meetings.

Ms. Cox: Well and I guess, yeah, and I guess what I'm thinking is that yes, we will put in whatever conditions we think are necessary and we're used to doing that, but I still think it's really important that the community have a chance to speak with you before we even get to that point of...but I, but I also totally understand your need to have that short.

Mr. Serpa: Yeah.

Ms. Cox: Because you need to move forward. That's all.

Chair Ako: And I'm a real believer in gap housing here too. And I also really appreciate those that have come to testify here today. Because I look at all of you out there, you know, you guys are from Kōloa. That's your home. That's your home. That's the place where you grew up in. And yet at the same time, I really believe that when we talk about sharing this information with Kōloa, it's more than whoever is here today. So, I think right now, I think what I'm thinking about is, is about deferring this and having outreach, an outreach program or outreach meetings with the residents of Kōloa.

Mr. Serpa: Okay.

Chair Ako: That's what I would be thinking right now.

Ms. Otsuka: I wanted to bring up the parking, and I'm not sure if this is for the department, but under the South Kaua'i Community Plan states, as proposed, the applicant satisfies the off-street parking requirements by providing 196 on-site parking stalls. But if it's 164 units and as most people testify, one unit will have more than one vehicle. So, because it...they're fulfilling the requirement, are they able to stick to that 196 or are we able to increase the on-site parking for the homeowners?

Mr. Hull: Yeah. So, the Commission has discretion, can increase the required amount of parking for a project. It's that balance. And definitely, you know, comments to the effect that, you know, some of the spillover parking is going to affect the neighborhood, right. That's, I'd say that's something to take note of. You know, we've had other proposals before the Commission, multifamily units that that were conditioned with one or even less parking stalls per unit, and that was an affordable housing project. But it was a notion that, you know, you pay for those parking stalls as a (inaudible), right, the you know, from a numbers standpoint, I think, Commissioner Ornellas' point is, there's that make up for housing and, you know, it was brought up that there's a 15 or 1400 deficit of units in 2018. That number is roughly around 3,000 today, of people actively looking for homes, they can't find homes in an inventory problem. So, you know, prioritizing in some aspects, roofs over people's heads over parking may be warranted. But at the end of the day, too, it's about a compatibility analysis and whether or not the proposal can function compatibly with the surrounding neighborhood, if there is not that that standard two units per dwelling unit.

Chair Ako: Okay, with that, do we have anything else you'd like to address right now? Okay, if not, thank you very much...

Mr. Serpa: Thank you.

Chair Ako: ...for coming. Other than that, if you have anything you want to make, are we ready for a motion?

Ms. Cox: I will make a motion that we defer this so that there can be a community meeting. And this is Project Development Use Permit, PDU 2026-7 and Class IV Zoning Permit, Z-IV-2026-9. And I suggest that the deferral be...when is our next meeting?

Mr. Hull: The next set of meetings are February 10th and March 10th. There can be also alternative meetings in the fourth week of February, as well as the fourth week of March. But right now, tentatively set is February 10th and March 10th.

Ms. Cox: Could you live with February 10th?

Mr. Serpa: Yeah, February would work.

Ms. Cox: Okay. I would say until February 10th, then defer it till then. That's my motion.

Chair Ako: We've got a motion on the floor. We have a second?

Ms. Streufert: Second. But could I also add that there be that condition about the TVR's in there before that? Thank you.

Mr. Jung: Yeah. We're also working with some of the testifiers about certain conditions. We're going to be having a slate as well. So, we'll take it upon ourselves to include that and then discuss with the Planning Department thereafter.

Ms. Streufert: It's not changing anything. It's just making sure that it is in the condition.

Mr. Jung: Correct.

Ms. Streufert: It's not a change.

Chair Ako: Any further discussions, Commissioners? If not, Mr. Clerk, can we have a roll call vote, please?

Mr. Hull: Roll call, Mr. Chair. Commissioner Cox?

Ms. Cox: Aye.

Mr. Hull: Commissioner DeGracia?

Mr. DeGracia: Aye.

Mr. Hull: Commissioner Ornellas?

Mr. Ornellas: Aye.

Mr. Hull: Commissioner Otsuka?

Ms. Otsuka: Aye.

Mr. Hull: Commissioner Streufert?

Ms. Streufert: Aye.

Mr. Hull: Chair Ako?

Chair Ako: Aye.

Mr. Hull: Motion passes, Mr. Chair. 6:0.

Chair Ako: Okay. I really want to thank everybody, especially for those that came to testify. I know you didn't think you would be here at 3:00, but, you know, at least at least the project is moving. And Ian, you guys, thank you for sharing. So, at this time, we'll take a recess. 30 minutes, 45 minutes. 2:30? 2:30? 3:30?

Mr. Hull: That's dinner recess.

Chair Ako: 3:15? Okay. Yeah, we'll reconvene at 3:15.

The Commission went into lunch break at 2:46 p.m.
The Commission reconvened from lunch at 3:24 p.m.

Chair Ako: I'd like to call the Planning Commission back to order.

Mr. Hull: Chair, recognizing after the meeting was gaveled for recess, that the schedule that was set for the Class IV Zoning Permit, Z-IV-2026-9, and PDU-2026-7, for SK Investors, the Kōloa Housing Project, the deferral to February 10th, however, in looking at the calendar, neither the Clerk nor the Deputy are available and are both out of state on that date. And we've conferred with the applicant and open to a February 24th deferral. We also communicated this to the Community Association president. So, Ian, I don't know if you're able to...

Mr. Jung: Yes, Ian Jung on behalf of SK Investors, and we do consent to the February 24th meeting deferral.

Chair Ako: Thank you.

Mr. Hull: That would have to be with the waiver of the timeline requirements of Chapter 8.

Mr. Jung: Yeah. With the waiver of the time constraint until February 24th.

Chair Ako: All right. Thank you, Ian.

Ms. Barzilai: Thank you Ian.

Ms. Otsuka: So, can you confirm in February there's just one meeting.

Mr. Hull: It will be just...

Ms. Otsuka: In February.

Mr. Hull: Or do you have something set, Dale, for February 10th as far as Commission?

Mr. Cua: There's four new agency hearings.

Ms. Cox: Did you make that up?

Mr. Cua: A month ago.

Ms. Barzilai: They're all Class IV's? Okay. Who will take your place then? I mean...

Mr. Hull: That's a discussion. I think this is something we didn't anticipate.

Mr. Cua: Can you appoint a hearings officer if you...on your behalf? No?

Mr. Hull: Not me.

Ms. Barzilai: I mean, I can run the meeting, but...

Mr. Hull: Yeah, we'll have to have...we'll discuss this further.

Ms. Barzilai: We can discuss this off the record.

Ms. Cox: So, we are (inaudible) February 10th?

Ms. Barzilai: Unclear, and if we get consent from the applicants, maybe we're not, but we'll see.

Mr. Hull: Moving on to...

Chair Ako: Okay, Mr. Clerk.

Mr. Hull: ...the next agency hearing. Apologies.

CLASS IV ZONING PERMIT (Z-IV-2026-7), USE PERMIT (U-2026-6) and SPECIAL PERMIT (SP-2026-2) to allow construction of a new office facility and dormitory, baseyard operation, associated site improvements on a parcel situated on the western side of Puhi Road in Puhi, located at the terminus of Haleukana Street, approximately 800 feet southwest of the Puhi Road/Haleukana Street, Tax Map Key: (4)3-3-018:005 (Por.) and affecting approximately 14 acres of a larger parcel = **PACIFIC CONCRETE CUTTING & CORING, INC. [Director's Report Received, 12/23/2025].**

1. Director's Report pertaining to this matter.
2. Transmittal of Public Testimony to Planning Commission.

Mr. Hull: We have one individual signed up to testify in this agency hearing, Steve Weinstein. However, I believe I saw Steve exit several hours ago. One last call for Steve Weinstein. Seeing none, we don't have anybody else signed up for this agenda item, but if any member of the public

would like to testify on the agenda item, you may approach the microphone. If you could state your name for the record and you have three minutes for testimony. If you can, if you can just hit the front. Yeah, yeah.

Mr. Bruce Sakemai: My name is Bruce. I actually I didn't come for this. I was just listening to the Kōloa things, and I sort of met this guy over here, but I just wanted to say something and nothing about. I don't know what he's here for. Okay, but I just wanted to say this more on the credibility thing. My cousin, this guy by the name of Keith Suga, he was an engineer, and he worked for Goodfellow, he worked for the county, and then he was working for him. So, I used to go his house eat all the time. And he always used to talk to me about this guy over here. I don't know what his name, but I know his wife. Yeah. And the things that he used to tell me about how he used to treat all the workers and everybody was shocked, but the thing I want to get at is this, Keith died about 45 years old. It's been two years. This guy still yet helping out the wife and the two kids. It's unheard of. People, they family die, they forget. This guy, he not even family. And he does that, so to me his credibility is unreal. And that's all I wanted to say. Thank you.

Chair Ako: Thank you, Mr. Sakemai.

Mr. Hull: Does anybody else that would like to testify that didn't sign up, please approach the microphone. If you can hit it one more time until it's green.

Mr. Thomas Lambert: My name is Thomas Lambert. I'm with Guardian Self-storage, which is an adjacent property to the subject property. The road in front of our facility is actually a private portion of the Puhi Industrial Park, and we share it with Extra Space and the Grove Farm property. It was designed for that purpose. And I have some concerns about the future traffic of a large facility on the property. We don't dispute the use, but we think it might be best if the access point was from Puhi Road. And I've spoken to the people at Puhi Metals Recycling and they're open to a shared driveway approach so that the public and the big trucks would come off Puhi Road into their facility. I think that would be better as far as accessing the facility, rather than going down a narrower road within the industrial park. And that's our only concern.

Chair Ako: Okay. Thank you.

Mr. Lambert: Thank you.

Mr. Hull: Is there any other member of the public that would like to testify on this agenda item? Seeing none, the department would recommend closing the agency hearing.

Ms. Streufert: I move to close the agency hearing.

Ms. Cox: Second.

Chair Ako: Okay. We have a motion and a second to close. All those in favor say aye. Aye (unanimous voice vote). All those opposed. The hearing is closed. 6:0.

NEW BUSINESS (For Action)

Mr. Hull: Next, we move directly into the New Business portion of the agenda for the same series of permits at the same site. If there's anybody else that wants to testify a second time. It is a technically agenda item for...seeing none, the department will turn over to Dale to do the preliminary summary, brief, of the proposed project.

Mr. Cua: All right. Good afternoon, Chair, members of the Commission.

Mr. Cua read the Summary, Project Data, Project Description and Use, Additional Findings, Preliminary Evaluation, and Preliminary Conclusion sections of the Director's Report for the record (on file with the Planning Department).

Chair Ako: Thank you. Questions? Please.

Ms. Streufert: For the this development is only for 14 acres. After when it becomes 15 acres, it becomes an SLUC kind of thing.

Mr. Cua: Correct. For any proposal greater than 15 acres, (inaudible) LUC.

Ms. Streufert: Right. So, right now it's 14 acres. If they were to expand it, say add another 5 or 10 acres to this. Would that, that would still not be required, there would not be an SLUC requirement. Correct? Or is it for the cumulative amount?

Mr. Cua: Yeah, it would be cumulative.

Ms. Streufert: Okay.

Mr. Cua: So, the project area is greater than 15 acres.

Ms. Streufert: Okay. Thank you.

Chair Ako: Other questions? If not, we have the applicant that would like to present.

Mr. Jung: Good afternoon again, Chair. Members of the Commission. Ian Jung on behalf of Pacific Concrete Cutting & Coring, and with me is Julie Simonton one of their principals. With that I'll open it up for questions. You know, this is one of those unusual state special permits which we have to prove it's an unusual but reasonable use on state designated agricultural land, as you know, as Dale Cua just mentioned, that their existing facility is just atop Isenberg, so the idea of this project is to relocate that facility, not the facility in terms of the built environment, but the operations from that facility over here to this new proposed facility. So, they'll continue their upcycling, recycling and reuse of construction waste and management and have a bigger base yard area to hopefully deal with more waste than what currently can be utilized now. So, the project in and of itself consists of six structures, three for primary use and then three storage type facilities that will house equipment and maintenance and things like that. The base yards are all identified on the Exhibit E, which is our site plan. We did also include the survey area of the 14 acres because we fully understand the constraint a 14-acre area requires, so there's no planned expansion off that. This property is a small portion of a 340-acre portion of property, which eventually, if this is approved, we can work with Grove Farm to acquire through a condominium property regime for the use and the ongoing use of the project. So, with that, I'll open it up for

questions, and Miss Simonton can address any operational issues you may have on the project as well.

Ms. Otsuka: I appreciate your company and what it does for the island, so thank you. I'm not familiar with the location. So, per Mr. Lamberts thoughts or requests, is it something that you're able to accommodate him?

Ms. Julie Simonton: I think, well, we don't have control over resource recovery. I mean, he has, he shared with us too, that sharing a driveway with them would be an option. So, where this is, if you come into this, the sort of, I call it the bottom end of the Puhi industrial and you take your first left, that's where you would get in and turn to this parcel. And utilities were stubbed out to extend there in the future. Grove farm has, there's an easement that, this is a Grove Farm issue, the easement to get onto that parcel. So, I don't want to speak to that because I'm afraid, I'll misspeak. But the intent, my understanding is the intent is that was always designated as the easement. That being said, we understand Mr. Lambert's concerns, and we are open to coming in through Puhi Metals, right now, there is no...Resource Recovery Solutions has that entire frontage along Puhi Road, so there's no option to come in like further down Puhi Road. So, it would take their agreement to do something. We are open to it, but it just happens to be out of our control.

Ms. Otsuka: Thank you.

Mr. Jung: But it is a matter we discussed with Mr. Lambert and can have continued discussions with Grove Farm at the time of the condominiumization of the property.

Chair Ako: Other questions? Commissioner.

Ms. Streufert: On page 23, it says that because it will not commit the land to perpetual industrial use, it is largely, largely compliant with KCC section, whatever. So, it's going back to...my understanding, my reading of this is that it could go back after this use, it could go back to agricultural use.

Mr. Jung: Correct. So, if they do wind up the operations then it would go back into agricultural use.

Ms. Streufert: Okay. And if that were the case, is there a requirement to bring it back to the status where it is now? In other words, to clean up, environmental cleanup and stuff like that? Or how's that work?

Mr. Jung: And I think this is from our, our last project for Kaua'i Asphalt, correct, so you know, that was an unusual case because there was a lease obligation with the County of Kaua'i to do that cleanup. This type of operation is a little different where it's not actual, you know, there is construction waste, and obviously if it's sold or abandoned, there would be no lease other than unless Grove Farm doesn't sell it. So, if so, thinking from the what ifs, if it remains as a leased option, there's always a cure in the lease provisions that you have to bring the property back into its shape as delivered, right. If it sells to PCCC, then they would be the landholder and be beholden on them to clean it up on their own free will, right. So, it's kind of tough to apply a condition like that to this property, but if it's something the Commission wants, then I think if the

operation does wind up it, the material could be removed, which I would imagine it would because it just would be sitting there.

Ms. Streufert: Right. I'm just thinking that this is agricultural land, and even if it's not prime, it's still agricultural land. And if it goes back to that, it can't really be used for agriculture if it's...if you've got equipment strewn all over or that there's an environmental kind of issue with waste or oil or something like that.

Mr. Jung: Sure. I think like if, if with the built environment, if it's approved and the built environment is established, then they could utilize that as a part of a larger ag operation around it versus actually on the site, the 14 acres. That's going to be the base yard site.

Ms. Streufert: Okay. And the last question I have, I am getting to the end of it. It's an area, I think I'm familiar with this area because I go past it, going through going through Līhu'e to Kalāheo, past that area, and...

Mr. Jung: You take the cheat road?

Ms. Streufert: I'm sorry.

Mr. Jung: You take the cheat road.

Ms. Streufert: Every once in a while. Depends on the traffic. What can I tell you? We find all different ways around that one road from east to west. It is a brush and grassland, has been reestablished in this area, and I know that the Planning Department has come up with these wildfire mitigation efforts. And it is, you do have some temporary employee housing, but there is really no requirement right now for anything that's outside of the plantation areas right now. So, but because it is a safety issue, would you be willing to work with the, or are you considering any ways of mitigating that wildfire risk and working with the department to initiate or to put into place some of those...

Mr. Jung: That has not come up. I know for on the border of ag to residential, there's a requirement for a buffer zone. I'm not sure from ag to industrial, I've never looked that up.

Ms. Streufert: I don't know that there is. I'm just asking that because it is grassland and it is pasture, and wildfires would go very quickly through that area.

Mr. Jung: Yeah, I think that's something we could look into for our grading plan.

Ms. Streufert: Great. That's all I'm asking for you to do.

Mr. Jung: Okay.

Ms. Streufert: To look into it because it is a concern. After all the fires in Lahaina and as well as by Makaweli.

Mr. Hull: Commissioner, if I could, maybe I (inaudible) clarifying question, are you looking for...from a wildfire resiliency standpoint, you have a couple different strategies. One of them is,

well, one of them is firebreaks and those have to do with the use of firebreaks in undeveloped areas to help break up the potential spread of flame, for the most part, if you will, wildfires. Firebreaks can be somewhat inconsequential from an ember spread standpoint when you have a high wind situation, but firebreaks are one potential strategy for undeveloped lands, and its impact potentially on the nearby wildland urban interface. A second approach is defensible space in the way that the lands of the property itself are managed. And then the third one is kind of a wildfire structural hardening aspect. Are...is there a particular avenue you're looking at or...

Ms. Streufert: I'm not, I'm not an expert in this. What I would do is, what I'm asking is for them to work with you on all the different strategies that may be available that makes sense to both of them, as well as to wildfire mitigation, because I think you would have, if you have a wind coming in, if you have a Kona wind, you're going to have the possibility of something like that happening. But, you know, that's all hypothetical, but it is, to try to mitigate it or to prevent some larger issues coming up. And what that, what those measures would be is something that you, the experts, are going to have to be working with.

Ms. Otsuka: Commissioner Streufert, your concern is just because of the dormitories, is that correct?

Ms. Streufert: No, for all of those things, because you've also got a base yard and you've got oil and stuff like that too. So, it's just to and maybe it's just swales or something else. I'm not sure. But that's not for me to decide. That's for them to consider and to, to put into effect if needed, or is seen as something that might be useful.

Mr. Jung: Yeah. If you look at our exhibit, our site plan in Exhibit E.1., there is on the border of the properties, which I think is your concern point from where a Kona wind would come into the property from the southwest, where there is silt fence and bile socks. I think we could incorporate...so there's NPDES requirements that require, you know, maintenance of those, those BMPs. But we could look at creating a buffer of no vegetation along that corridor.

Ms. Streufert: I'm not going to tell you what to do. I'm just going to say that, just to think about that and to consider how best to do that on the chance that something like this can happen. And unfortunately, we can't say it's not going to happen. Unfortunately, we cannot say that there's no arson that can go on. So, I'm just trying to be careful because that is close to residential area even, and you've got a lot of industrial areas around that.

Mr. Jung: Yeah. And I think for the built environment they are going to be steel based buildings. So, I think they'll be relatively fire resistant. And I think the way the site plan configuration is, it would probably meet the wildland urban fire interface. Is that what it is? I tried to study it for the last project. I try to memorize the code.

Ms. Streufert: I get those words mixed up. So, I'm not even trying.

Mr. Jung: So, but I think the building-to-building setbacks would definitely comply with those requirements. But if there's, we're happy to have a conversation with planning too about incorporating some of the design requirements for grates and whatnot, you know, along any ventilation, so...

Ms. Streufert: And we learn all the time what, what constitutes a risk. And it changes all the time. So, you know, whatever you guys decide on, that'll be great. But it's just that at least you're aware of it that you are considering.

Chair Ako: Commissioner Ornellas.

Mr. Ornellas: So, Hulemalu Road is narrow, and is there a way to discourage truck traffic on that road once your facility opens? Because coming from the west side, you'd be tempted, you know, a truck would be tempted just to turn off at the Kipu turn off and come back that way.

Ms. Simonton: Because there's a five-ton bridge on the bottom of the hill right there. So, it's definitely not truck rated. And because of the turns, I don't think any truck driver would, even in spite of traffic, would want to go down. It's not legal and they wouldn't want to. And yeah, we definitely wouldn't consider any access point off of Hulemalu because it's not safe for trucks. That's why it's much better to come off of Puhi Road, whether it's through the industrial or through, you know, our shared driveway with Resource Recovery.

Mr. Ornellas: It's a good company. I mean, these are the guys I believe that demolished Coco Palms, right.

Mr. Jung: And Puhi Road is being developed right now. It's being reconstructed and widened and whatnot.

Mr. Ornellas: So, it's a good company. I purchase product from them. You might consider since you're taking ag land, you might consider giving the farmers (inaudible).

Ms. Simonton: Oh yeah, oh, for sure. For sure.

Ms. Cox: So, this is perhaps a silly question, but I just want to make sure, since you do have dormitories, when you were considering the parking, you were also considering the people who are living there as well.

Ms. Simonton: Yes. And they wouldn't, they wouldn't live there. They, you know, they come in and again, nobody comes from the mainland. We have offices on other islands, for example this week we have ten guys, seven from Maui and four from O'ahu, we have 11 guys, four from O'ahu who are here. You know, there's four guys per car, you know, and we're spending a lot on rentals. So yeah, this would just help us bring in guys from other islands, Monday through Friday.

Ms. Cox: It's a great idea. And you guys do good work, important work.

Mr. Jung: And one of the conditions does require the usage for employees. So, I think the Planning Department was keen to that issue.

Chair Ako: Just for my education. We're having an industrial activity going on in an ag place. And you're looking for a, I guess, a variance for that. Should operations stop, this goes back to a regular ag land again? Or I'm assuming if somebody takes over your business, it just keeps on going.

Mr. Jung: It would keep on going subject to the conditions because the conditions run with the land. So, the usage conditions...

Chair Ako: Yeah...so once...

Mr. Jung: ...for (inaudible) special permit.

Chair Ako: So, say your company just dissolves, that land now is back to ag. Is that right?

Ms. Barzilai: It remains ag.

Chair Ako: It remains ag right with no variances attached to it.

Mr. Hull: Let me just clarify that. So, it is ag, period. The special permit that is being proposed to the Commission is to allow an operation that's non-agricultural in nature to operate on agricultural lands. As Mr. Jung is pointing out, the permit runs with the land. So, regardless of ownership of the land or the operation, that permit runs with the land. So, even if PCCC were to say, dissolve and no longer exist, the land use entitlement still runs with the land. Irrespective of ownership.

Chair Ako: Okay.

Ms. Barzilai: But Chair, it's permitted for this operation, this type of activity.

Chair Ako: Yeah. Okay.

Mr. Hull: So, even though it's industrial in nature, say if PCCC dissolved and in came, I don't know, a nuclear power plant that's also industrial in nature, it doesn't mean they get to use this special permit to operate a nuclear power plant. The new operator would have to stick within the proposed limitations that's embedded within the application and adhere to the conditions of approval.

Chair Ako: Okay. Any other questions? You know, I have a lot of respect for this guy, Bruce Sakemai, and he introduced this man. Who is this? Who is this man?

Ms. Simonton: This is my husband, Eli Brainard, who founded the company, 25 years ago. And Bruce is in trouble with me because he spoke so highly of Eli, but earlier in the day, he told me that, because I've known him for years, he told me that I was prettier when I was younger. So, yeah, yeah.

Mr. Hull: That sounds like Bruce.

Chair Ako: Yeah. Knowing Bruce, that's him.

Ms. Simonton: And I do just have to take a minute and acknowledge Keith Suga. He was such an important part of our company, and I feel like even Bruce bringing him up today just shows that Keith is still looking out for us today. So, I just want to, yeah, thank you to Keith.

Chair Ako: Thank you for coming.

Ms. Streufert: And thank you for taking care of your workers and former workers. That's amazing. And I also give credit to you for doing that, not just to your husband.

Ms. Simonton: Sitting in that chair.

Chair Ako: Yep. So, if not, if we're ready for a recommendation.

Mr. Cua: Chair, there's a total of let me see, 12 conditions noted in the Director's Report. The department is recommending approval of the project at this time. If you have any questions or clarifications for me for any of the conditions?

Chair Ako: Unless there is...no. So, with that, we can entertain...

Ms. Streufert: (Inaudible) wildfires and putting and if it goes back into agriculture, if this use permit is not, if the, if the use changes then it goes back into agriculture, that it be brought back to some state that agriculture can use that land. To add that condition.

Mr. Cua: Just for clarification. Is that just limited to the products on the site or even the buildings?

Ms. Barzilai: I think we need language.

Mr. Cua: Because the proposal involves several buildings. I think, I think I noted in the report there's four buildings, yeah. And the discussion that I heard was for the products on site.

Ms. Streufert: I'm looking only at the land. I'm not looking at anything else. So, if, if the...

Mr. Cua: So, the buildings can remain?

Ms. Streufert: I would, if it can be used...

Mr. Cua: Yeah.

Ms. Streufert: I'm not...

Mr. Cua: So...so...

Ms. Streufert: I'm more looking at environmental.

Mr. Cua: Yeah. So, in a previous project I've had a condition where it would read, upon termination of the facility, the applicant shall restore the project site to its preexisting condition, to occupancy of the site. Any site improvements that are constructed shall be removed.

Ms. Streufert: I would take out the second part of it. Can we take out the second sentence?

Mr. Cua: Just the first sentence?

Ms. Streufert: Yeah. I would just leave, but that would be what I would recommend that...How does how does the applicant feel about either one of those?

Mr. Jung: I think, I think it's fine for the future stockpiled material as well as the construction waste. But I think we should maybe carve out an exemption for the built environment.

Ms. Streufert: Right.

Mr. Jung: Because it could be if someone were to, so, my experience is if someone wants to readapt the use and have an adaptive reuse of an old project, you got to come back in before the Commission to propose the new use based on what exists, so.

Ms. Streufert: So, based upon that, if you had the first sentence but not the second sentence, just the built environment.

Mr. Jung: I think the, well, the pre, our challenge here is right now it's currently vacant.

Ms. Streufert: Yes.

Mr. Jung: Right. So, if the pre use as of right now the approval is problematic. So, I think if we add with the exception of the proposed built environment then we could assure restoration of the land area.

Ms. Streufert: Would that be acceptable?

Mr. Cua: So, what I'm hearing is the proposed condition would read, upon termination of the base, upon termination of the facility, the applicant shall restore the project site to its preexisting condition, to occupancy of the site, with the exception of the built environment?

Ms. Streufert: That would do for us.

Ms. Otsuka: Isn't this something normally that you folks would have to deal with Grove Farm about, the landowner?

Mr. Jung: Yeah. As I was trying to explain, you know, there's a lease issue and the lease would have a restoration clause where you got to bring it up to or bring it into a clean slate of what you originally had, got it in terms of receive.

Ms. Otsuka: Yes.

Mr. Jung: But the issue here is they're going to be acquiring it from Grove Farm, right. So, once they become the landowner, there's no longer any lease obligation for that restoration. So, with this condition then it's onus on the operation. So, if someone wants to restore it or if someone wants to use it before the change in use, it's got to be restored.

Ms. Simonton: I believe, we're going to need to get a Department of Health permit. Sorry to interrupt you, but we're going to have to get a Department of Health permit to operate. We have one now for our current facility, and that comes with a provision in the Department of Health permit that in the event that we stop operating, we have to restore it. So, there are, there's like the closure conditions come with the DOH permit.

Ms. Otsuka: So, okay.

Ms. Simonton: There's another check in the system also.

Ms. Otsuka: Got it. Okay. I thought you had to deal with just the landowner. Thank you.

Chair Ako: Okay. We're good with that, Mr. Cua?

Mr. Cua: So, I just have that one condition regarding the restoration of the site. I know there was discussion about the wildfire strategies. I don't know if Commissioner Streufert wanted one as well.

Chair Ako: Just that one.

Mr. Hull: Yeah, if you want to read it onto the record, Dale?

Mr. Cua: Okay, then I have one additional Condition 14, where it would read, the applicant shall work with the Planning Department and the Fire Department to implement strategies to reduce the risk of wildfire impacts to the subject property and the surrounding area.

Ms. Streufert: Thank you. It doesn't specify exactly. It doesn't specify exactly what needs to be done, but that there's an awareness and there's a working towards a solution.

Chair Ako: Okay.

Mr. Cua: So, as amended, there will be a total of 14 conditions.

Ms. Streufert: I move to approve Class IV Zoning Permit, Z-IV-2026-7, Use Permit, U-2026-6, and Special Permit SP-2026-2, with the as proposed by the Planning Department or as recommended by the Planning Department with the amendments.

Ms. Otsuka: Second

Ms. Streufert: Conditions.

Chair Ako: Okay, we've got a motion and we got a second. Any questions, concerns? If not, Mr. Clerk, can we have a roll call vote, please.

Mr. Hull: Roll call, Mr. Chair. Commissioner Cox?

Ms. Cox: Aye.

Mr. Hull: Commissioner DeGracia?

Mr. DeGracia: Aye.

Mr. Hull: Commissioner Ornellas?

Mr. Ornellas: Aye.

Mr. Hull: Commissioner Otsuka?

Ms. Otsuka: Aye.

Mr. Hull: Commissioner Streufert?

Ms. Streufert: Aye.

Mr. Hull: Chair Ako?

Chair Ako: Aye.

Mr. Hull: Motion passes, Mr. Chair. 6:0.

Mr. Jung: Thank you, Commissioners. Appreciate it.

Chair Ako: Thank you very much for coming.

Continued Public Hearing

Mr. Hull: Moving on to agenda item.

ZA-2026-1: A bill (2969) for an ordinance amending Chapter 8, Article 27 of the Kaua'i County Code 1987, as amended, relating to Shoreline Setback and Coastal Protection. The purpose of this Ordinance is to amend the Shoreline Setback Ordinance by adding safeguards that protect life and property and ensure the longevity and integrity of Kauai's coastal and beach resources along the shoreline = KAUAI COUNTY COUNCIL. [Director's Report, Received, Hearing Continued, 8/26/2025; Deferred, 11/10/2025).

1. Supplemental #1 to Director's Report pertaining to this matter.
2. Transmittal of Agency Comments to Planning Commission.

Mr. Hull: We don't have anybody signed up to testify. Is there any member of the public wanting to testify on this agenda item? Thank you for your patience, Caren.

Ms. Caren Diamond: Sure. Aloha. Good afternoon, Commissioners. I just want to say I strongly support this bill. I hope you do as well. And thank your wonderful Planning Director, Ka'aina Hull and Alisha Summers, who's done a great job on all the amendments and things. And thank you.

Chair Ako: All right. Thank you. That was nice.

Mr. Hull: Is there any other members of the public would like to testify on this agenda item? Seeing none. This is a public hearing. So, I'll turn it directly over to Alisha for the, hopefully is the final supplemental report for this project.

Staff Planner Alisha Summers: Good afternoon, Planning Commission Chair and Commissioners.

Ms. Summers read the Summary, Project Data, Project Description and Use, Additional Findings, Preliminary Evaluation, and Preliminary Conclusion sections of the Director's Report for the record (on file with the Planning Department).

Ms. Summers: Before I read the recommendations, are there any questions?

Chair Ako: No questions.

Ms. Summers: Based on the foregoing evaluation and conclusion, it is recommended that Zoning Amendment, ZA-2026-1 be approved.

Chair Ako: Ready for a motion.

Ms. Cox: I move that we approve Zoning Amendment, ZA-2026-1. It's an important one and I thank the department for working on it and continuing to improve it.

Ms. Otsuka: I second.

Chair Ako: We have a motion, it's been seconded. Any last comments? Seeing none, Mr. Clerk, if we can take a roll call vote on this, please.

Mr. Hull: Roll call, Mr. Chair. Commissioner Cox?

Ms. Cox: Aye.

Mr. Hull: Commissioner DeGracia?

Mr. DeGracia: Aye.

Mr. Hull: Commissioner Ornellas?

Mr. Ornellas: Aye.

Mr. Hull: Commissioner Otsuka?

Ms. Otsuka: Aye.

Mr. Hull: Commissioner Streufert?

Ms. Streufert: Aye.

Mr. Hull: Chair Ako?

Chair Ako: Aye.

Mr. Hull: Motion passes, Mr. Chair. 6:0.

(Mr. Hull stepped down)

New Public Hearing

Planning Deputy Director Jodi Higuchi Sayegusa: I think we are on Item 4. New Public Hearing.

Proposed amendments to the Special Management Area (SMA) Rules and Regulations.

1. Director's Report pertaining to this matter.

Ms. Sayegusa: Let's see. First of all, is there any testimonies? I don't see there's anybody in the audience. Well, sorry. Is there a public testimony today? Okay. Thank you. I, let's see, I'll keep it in the interest of time. And I know you folks had a very, very long day. I'm going to keep it relatively brief. What you have before you today were proposed SMA Rule amendments that were long overdue. There are primarily, most urgently, there were several legislative amendments enacted since 2011 when the SMA Rules were initially adopted. There was an amendment in 2015, but other than that, there hasn't been much change to the SMA Rules. So, it's been really long overdue. And so, in 2020 and 2025, there were some major changes to HRS 205A, that really necessitates an update to our rules. So, that's one of the most urgent changes. In addition, there were other amendments incorporated to codify procedures that have been in practice. You know, as we implemented the SMA Program and the CZM Program, we've put into practice a lot of things that aren't necessarily fully reflected in the rules. So, that's being incorporated, and it's also, you know, just based on our practice, some holes that need to be plugged. So again, these are all being formalized and amended rules. I was planning to go through each of the changes. I think at this time, the plan from the department's perspective is to continue the hearing, the public hearing as well as, you know, work with, you know, key community members, namely, Caren Diamond, who submitted a lot of really good suggested changes. So, we're going to, we are in the process of making amendments to the rules to incorporate a lot of the really, really good and valid suggestions. And so, we're going to ask that this be continued to the next meeting. So, February 24th, 2026. And so, that we can have a chance to further amend it and refine it. But I can address any concerns or questions at this time as well.

Ms. Otsuka: Question.

Ms. Sayegusa: Sure.

Ms. Otsuka: Would the motion be considered a deferral or no?

Ms. Barzilai: I would say motion to continue. I liked the way you phrased it.

Ms. Otsuka: Motion to continue.

Ms. Barzilai: Motion to continue public hearing.

Ms. Sayegusa: Right. Just for the clarify, we did put a notice of public notice of the public hearing for this rulemaking action that notice today. So, it would just be continuing that the agency, the public hearing to allow for additional testimonies to be received.

Chair Ako: Okay. Any comments, questions?

Ms. Otsuka: Motion to continue for public hearing.

Ms. Barzilai: Motion to continue public hearing.

Ms. Otsuka: Public hearing.

Chair Ako: Until February 24th.

Ms. Barzilai: Until February 24th.

Ms. Streufert: Second.

Chair Ako: We got a motion, we got a second. Any comments or questions? Seeing none...

Ms. Barzilai: Voice vote is fine, Chair.

Chair Ako: Voice vote? Okay. All those in favor say aye. Aye (unanimous voice vote). All those opposed. Motion is carried till February 24th. 6:0.

Ms. Sayegusa: Thank you.

Chair Ako: Thanks, Jodi.

Ms. Sayegusa: I guess. Well, I'm, I think your clerk is taking a big break.

Ms. Barzilai: That's okay because the next item is...

Ms. Oyama: Laura.

Ms. Barzilai: I'm going to read the next item into the record. I think. Well, no I can proceed. Should I proceed?

Ms. Sayegusa: Yeah.

CONSENT CALENDAR

Director's Report (None)

Class III Zoning Permits (None)

Ms. Barzilai: Sure. Consent Calendar has come in. Director's Report for project scheduled for agency hearing, none. Class III, none.

GENERAL BUSINESS MATTERS

Ms. Barzilai: General Business Matters for a incorrectly numbered, but we're at General Business Matters.

Clerk of the Commission's Recommendation to Refer an Appeal of the Planning Director's Cease and Desist and Forfeiture of TVRNCU #4219 and Special Permit SP- 2011-13 (The Sugar House) for the Failure to timely renew by November 25, 2025, We Belong LLC, 3525 Anini Road, TMK 53004029, Kilauea, Kauai, appeal dated December 19, 2025, for referral to Boards & Commissions as Contested Case File No. CC- 2026-6.

1. Notice of Appeal of TVR-NCU Renewal Cancellation from Holly Lazo, Kauai Island Vacations, Inc. dated December 18, 2025.
2. Letter (12/31/2025) from Holly Lazo, Kauai Island Vacations, Inc. requesting to postpone discussion of appeal.

Ms. Barzilai: I believe that Ms. Lazo submitted a letter saying that she would like to proceed with her appeal, but she is out of the country and asking to continue this item. And we have Chris Donahoe, Deputy County Attorney, on behalf of the department.

Mr. Donahoe: Deputy County Attorney Chris Donahoe, on behalf of the department. I did read the appeal, as well as the request to defer the matter. So, that she can be present for the referral out for a contested case. I have no objection to the deferral request. I just wanted to place on the record. It should be noted that I read the appeal. The facts are extremely similar to a matter that was heard and decided by the ICA, which is Kendrick v, Kendrick and Chaulkin v Planning Department and Planning Commission, CAAP-20-0000573. It's published case at 155 Hawai'i 230 where, as the ICA upheld the forfeiture of the NCUC in favor of the Planning Commission and the Planning Department, and against the TVR NCUC certificate holder, so the county will be relying upon that, but I'll bring that up, and it's hoped that the appellant will review that case before to see if the appeal still wants to go forward. That's all.

Ms. Barzilai: So, Commissioners, today, you would either proceed with the request to refer it out, or you would offer a motion to defer to February 24, 2026, to give Ms. Lazo an opportunity to appear, before you refer it out for contested case. Chair, you need a motion, or if you have any questions of Mr. Donahoe.

Chair Ako: Looking for a motion.

Ms. Otsuka: Will she be back in February?

Ms. Barzilai: I'm not sure for...I'm not sure if her letter said...

Ms. Otsuka: I'm trying to...to date she won't be here.

Chair Ako: Yeah.

Ms. Otsuka: I'm trying to find it.

Ms. Streufert: February 10th.

Ms. Otsuka: And didn't she give two dates?

Ms. Barzilai: She is requesting to postpone until February 10th, so I think we can safely presume that she'll be back.

Ms. Otsuka: Okay.

Ms. Barzilai: And then it'll be posted in the agenda and she can learn of the date. We can mail her a copy of the order.

Chair Ako: So, February 20, deferred to February 24th? Deferred to February 24th? Would work?

Mr. Donahoe: Either date is fine in February.

Chair Ako: Yeah. Okay.

Mr. Donahoe: Yes. March gets a little hairy from these.

Chair Ako: Okay. Looking for a motion.

Ms. Otsuka: Motion to defer.

Chair Ako: Till February 24th.

Ms. Barzilai: Need a second, please.

Ms. Streufert: Second.

Chair Ako: Second.

Ms. Barzilai: Motion on the floor is to defer. Is there any (inaudible) discussion?

Ms. Otsuka: Did I need to specify the date?

Ms. Barzilai: Sure.

Ms. Otsuka: Motion to defer to the next Planning Commission meeting dated February 24th, 2026.

Ms. Streufert: Is there a meeting on the February 10th?

Ms. Barzilai: No. No meeting.

Ms. Streufert: Okay. Got it.

Chair Ako: Okay. If not...

Ms. Barzilai: Any final discussion on that?

Chair Ako: No final discussion. We're good. Can we have a...

Ms. Barzilai: Okay, would you like a roll call on that?

Chair Ako: Can we have a roll call?

Ms. Barzilai: Sure. To defer consideration of the We Belong appeal until February 24th, 2026.
Vice Chair Cox?

Ms. Cox: Aye.

Ms. Barzilai: Commissioner DeGracia?

Mr. DeGracia: Aye.

Ms. Barzilai: Commissioner Ornellas?

Mr. Ornellas: Aye.

Ms. Barzilai: Commissioner Otsuka?

Ms. Otsuka: Aye.

Ms. Barzilai: Commissioner Streufert?

Ms. Streufert: Aye.

Ms. Barzilai: Chair Ako?

Chair Ako: Aye.

Ms. Barzilai: Motion carries. 6:0.

Mr. Donahoe: Thank you Commission.

Chair Ako: Thank you.

Annual evaluation of the Planning Director in accordance with Planning
Commission Rule 1-15-5(1).

Ms. Barzilai: Final item on our agenda today is the annual evaluation of the Planning Director. In accordance with Planning Commission Rule 1-15-5(1). At this time, I will distribute the evaluation forms, and Mr. Hull can be invited to either remain present or step out.

Mr. Hull: Just a reminder, you might want to call for public testimony.

Ms. Barzilai: Would anybody like to testify on the annual evaluation of the Planning Director?
Hearing none.

Mr. Hull: Recognizing that this is the evaluation of the Director, and it has to now be done in public session and I'm completely accepting that. Being that can be somewhat awkward as you

go through this evaluation worksheet. I'm just going to step out. It's not me removing myself, but just remove, if you will, the awkwardness. And I'm 100% available to come back in...

Chair Ako: It won't be.

Mr. Hull: ...once you folks are complete.

Chair Ako: You can stay.

Ms. Cox: We're going to be quick.

Mr. Hull: I'll step out.

Ms. Barzilai: So as traditional, you can invite Mr. Hull to come back in when you're finished.

Ms. Otsuka: I have a question. Were we supposed to receive the status report? Oh, where did he go? Were we supposed to receive the status report for the AES Lawai Solar?

Ms. Barzilai: So, this came in on Consent Calendar, Commissioner. So, when the agenda was approved, it simultaneously approves the Consent Calendar unless you request that it be moved off.

Ms. Otsuka: Thank you very much.

Ms. Barzilai: You're welcome.

Chair Ako: Okay. Last one, 4:15. I think, Commissioner...

Ms. Cox: Five.

Chair Ako: Commissioner Glenda has agreed to assist us in moving this along as quickly as we can.

Ms. Streufert: Okay. So, here's what we're going to do with this one. Is this in executive session?

Ms. Barzilai: No.

Ms. Otsuka: No.

Chair Ako: No.

Ms. Barzilai: We are in open meeting right now.

Ms. Streufert: This is in open meeting, okay. We're all going to rate. There's a 1 to 5 scale on each one of those things. We'll do a rating. Each one will do a rating. But then you'll just give me some key words and then I will write the narrative that goes along with it. So, it'll be faster rather than everybody having to do that. Is that work for you guys or...

Ms. Cox: Yes.

Mr. DeGracia: Or what do you guys think we just fill it out individually and we come back for discussion?

Ms. Streufert: We could do that.

Mr. DeGracia: That way it doesn't...

Ms. Otsuka: I think that's going to take a little longer.

Ms. Cox: That's going to take a lot longer, isn't it?

Mr. DeGracia: You think so?

Ms. Otsuka: Yeah. It's going to take longer.

Mr. DeGracia: That's fine. Majority rules.

Chair Ako: So, I guess my question would be to our attorney whether that would be an acceptable practice to...as what Commissioner Glenda was mentioning. Yeah. We just give her a numerical rating as well as buzzwords for each one. And then. she'll write it down.

Ms. Streufert: I'll tell you what. Rather than that, what if everybody does their own numerical rating. So, it's totally anonymous and then, but just give me the words and I will collate the numbers, and I will write the words. How does that work?

Ms. Barzilai: I think you guys are familiar with this form. I mean, you've seen it many times now and there really are no set rules on how you have to do this. So, so long as everybody feels that their input was heard and considered, it's fine.

Chair Ako: Okay.

Mr. Ornellas: Generally, in the past, (inaudible) one person, you know, we reach consensus and one person (inaudible).

Chair Ako: Yeah.

Ms. Barzilai: And with that said...

Ms. Streufert: That's what I was planning on doing. But just to put in, everybody can do their own rating. Everyone can do their own rating if you want to, or you can just tell me what it is and I will just put my catch marks on it and then just write the words, it's up to you, or you can do it all separately. I'm just trying to make it easier, but it does it faster. But it doesn't really matter to me.

Ms. Barzilai: If any Commissioner is more comfortable filling it out and having it incorporated into the final, that's also fine, on their own.

Chair Ako: I'm good with coming to a numerical answer for each one individually, and we just give you the buzz words and then you fill in the blanks for us.

Ms. Streufert: I just need buzz words. I'm not going to, it's not going to be a long narrative. It's just going to be buzz words to make it easier. I'll read it off to you at the end of it, so you'll know what's on there.

Chair Ako: So, if we do number one, we would score. I would say a five.

Ms. Cox: I would say five.

Ms. Otsuka: Five.

Chair Ako: With (inaudible) consensus? Okay.

Ms. Otsuka: Five.

Chair Ako: Number two would be, number two is a little different.

Ms. Streufert: Two is Planning and Organizing.

Chair Ako: Yeah.

Ms. Streufert: Two is Planning and Organizing.

Ms. Otsuka: Five.

Ms. Cox: Five.

Chair Ako: Five. Oh okay. Got it.

Mr. Ornellas: Five.

Ms. Streufert: Three is Leadership.

Ms. Cox: Five.

Ms. Otsuka: Five.

Mr. Ornellas: Five.

Mr. DeGracia: Five.

Chair Ako: Five.

Ms. Streufert: Four is Communication.

All Commissioners Unanimous Voice: Five.

Ms. Streufert: Five is Personnel Management.

Ms. Otsuka: Managing, motivating employees.

All Commissioners Unanimous Voice: Five.

Ms. Streufert: Six is Achieving Goals.

Ms. Otsuka: Five.

Ms. Cox: Five.

Mr. Ornellas: Five.

Mr. DeGracia: Five.

Ms. Streufert: Seven Policy Development.

Ms. Otsuka: Five.

Ms. Cox: Five.

Mr. Ornellas: Five.

Mr. DeGracia: Five.

Ms. Streufert: Eight is Financial Management.

Mr. DeGracia: This is the one we always...

(Multiple Commissioners speaking at once).

Ms. Cox: We always say we can't say anything about.

Ms. Otsuka: Yeah, we don't know what he...

Mr. Ornellas: Yeah, he...

Ms. Otsuka: ...he's not involved.

Ms. Cox: NA.

Ms. Streufert: NA.

Chair Ako: NA.

Ms. Streufert: The average overall trend is...

Ms. Otsuka: Five.

Ms. Streufert: And this is the one I always have a problem with since it's always five. Is that improving?

Ms. Otsuka: Yeah or the same.

Ms. Streufert: Or the same? Or declining? I mean it's...

Ms. Cox: It's definitely not declining.

Ms. Barzilai: I believe that last year you actually gave a superlative word to that instead.

Ms. Streufert: Okay.

Ms. Cox: Okay.

Ms. Streufert: So, what's the superlative word we want to...

Ms. Barzilai: And please note also that you can put any comments for improvement of the form on the form as well.

Ms. Cox: So, what did we say last year?

Ms. Streufert: Exceptional. Excellent.

Mr. Ornellas: Yeah. Exceptional.

Ms. Cox: Exceptional.

Ms. Streufert: Okay.

Ms. Cox: That's good.

Ms. Streufert: Okay. So, the average score is...

Mr. DeGracia: Five.

Ms. Cox: Five.

Ms. Streufert: Okay.

Chair Ako: Calculator, would work.

Ms. Streufert: And the...and are there. So, I'm going to go through this again in terms of buzzwords for...are there any recommendations for improvement for Customer Service.

Mr. Ornellas: Nope.

Ms. Cox: No.

Ms. Otsuka: No.

Mr. DeGracia: Stay on as being the Director.

Ms. Streufert: Is there any recommendation for improvement on Planning and Organizing?

Ms. Cox: No.

Mr. DeGracia: I think he's maxed out. It's really hard to recommend improvement on an excellent score.

Ms. Cox: Yeah.

Ms. Otsuka: Yeah.

Ms. Streufert: Yeah, well, that's true of all of them.

Ms. Cox: Right. Exactly.

Ms. Streufert: So, at the very...so, let's just go to the very end and say...

Chair Ako: See in my mind he kind of get that Japanese theory that Japanese theory of kaizen, continual improvement. Always looking for...

Ms. Cox: What are your comments?

Ms. Streufert: How do you want to...what do you want to say about the comments overall? Comments?

Unknown Commissioner: What are your comments?

Ms. Streufert: Wait, we don't have any. These are employee comments.

Chair Ako: Employee comments.

Ms. Cox: Yeah. So, we don't want to...

Ms. Streufert: So, we don't have any comments all the way through.

Ms. Cox: Well, there's...oh, yeah.

Ms. Otsuka: Isn't there a recommendation for improvement?

Ms. Streufert: So, how...

Ms. Cox: Yeh, but we didn't have that.

Ms. Streufert: Do we have any descriptions of how he has done really well for Customer service?

Mr. Ornellas: Outstanding.

Ms. Streufert: I'm sorry.

Mr. Ornellas: Outstanding.

Ms. Cox: Yeah. And he's really respectful.

Ms. Otsuka: Respectful is a good word.

Ms. Streufert: Okay. Okay for Planning and Organizing. Always organized and always a...

Chair Ako: I think he's always organized in the meetings.

Ms. Cox: Yeah, he's always organized and prepared.

Ms. Streufert: Prepared.

Mr. DeGracia: And the meetings always prepared.

Ms. Cox: Yeah.

Mr. DeGracia: Homework's always done.

Ms. Otsuka: He's an expertise in his field.

Ms. Cox: Exceptional leader.

Ms. Streufert: Do we want to do that under Policy Development? He's an expert in his field.

Chair Ako: Yep.

Ms. Cox: I also think it fits with leadership is that he's not only respected here, he's respected across the country.

Chair Ako: Yeah.

Mr. Ornellas: (Inaudible) nationwide.

Ms. Cox: Nationwide, yeah.

Ms. Streufert: Okay. Communication.

Ms. Otsuka: I don't know as far as like, leadership, and for Ka'aina and Laura included, it's like I want to do my best because of them. Like, I don't...I don't know if I should say I want to, not impress them, but they motivate me.

Mr. DeGracia: Inspire.

Ms. Otsuka: They motivate and inspire me...

Ms. Cox: I don't think it's just you, I think it's...

Ms. Otsuka: ...to do as best as I can.

Ms. Cox: ...his employees too.

Ms. Otsuka: Yeah.

Ms. Cox: I think he inspires his employees to do their best.

Mr. DeGracia: He does a good job by leading by example.

Ms. Cox: Yep.

Mr. DeGracia: Especially, you know he's putting in his 100% and he inspires everybody else to do so.

Ms. Cox: Yeah.

Mr. DeGracia: And to do any less is not enough.

Ms. Otsuka: Yeah.

Ms. Cox: Is that why we're all still here at 4:22?

Ms. Streufert: All right. How about Communications?

Mr. DeGracia: Effective.

Ms. Cox: Yeah. He's effective both at formal and informal communication.

Chair Ako: I think he does a good job getting what's in his brain out of his mouth.

Ms. Streufert: Good job getting thoughts across to the audience.

Chair Ako: Yeah. You can put it like that.

Ms. Streufert: Okay. All right. Personnel Management.

Ms. Cox: Oh, maybe the last (inaudible) should have been there.

Ms. Streufert: No, this is for Personnel Management.

Ms. Otsuka: He's very motivational, unknowingly...

Ms. Cox: And he's helped...

Ms. Otsuka: ...unknowingly motivating.

Ms. Streufert: How about every, all of his employees seem to be happy.

Ms. Cox: Yeah, and he's also brought...

Ms. Otsuka: But, if that, even if it's true...

Ms. Cox: ...many of them along.

Ms. Otsuka: ...is that us speculating?

Ms. Cox: I wondered about that, too, when I said because I was going to say that too.

Ms. Otsuka: I agree, but still, there could be just one, one employee that...

Ms. Cox: We could say...

Ms. Otsuka: ...sits in a corner that we're not aware of.

Ms. Cox: ...all the employees seem to be happy.

Ms. Otsuka: Majority.

Mr. DeGracia: We're not exposed.

Ms. Otsuka: Yeah, we're not.

Mr. DeGracia: It's only from where we're sitting.

Ms. Cox: Yeah.

Mr. DeGracia: Everybody looks happy...

Ms. Cox: From what we see.

Ms. Otsuka: Yeah.

Ms. Streufert: All employees are, all of his employees are perceived to be very happy and they follow his example and they give their all for that work.

Ms. Otsuka: Yeah.

Ms. Cox: Sure.

Ms. Otsuka: The employees are excellent and are...yeah.

Mr. DeGracia: And (inaudible), so if you guys notice that, you know, we've seen new people presenting and he's always uptraining.

Ms. Cox: He's a really good mentor, I think.

Mr. DeGracia: And I saw new faces back here, one. But you know within the past couple of years we've seen a rotation of his employees. And it looks like more people are stepping up to, you know, to present the applications and such. So, it looks like everybody's training. I saw faces that was not necessarily on the front counter at the front counter. So, it's neat to see the rotation.

Ms. Otsuka: But would it be his responsibility for that...for organizing? It would be him?

Ms. Streufert: Mentoring and coaching.

Mr. DeGracia: Motivating and developing employees.

Ms. Cox: Yeah, definitely mentoring.

Ms. Otsuka: But he would be the one to make the different people (inaudible)?

Mr. DeGracia: Oh, I'm not, I'm, also I'm just guessing what his job is.

Ms. Otsuka: (Inaudible).

Ms. Cox: We say mentoring. That's...we don't have to say it that way.

Ms. Otsuka: I believe it, but...

Mr. DeGracia: He's a Director.

Ms. Streufert: How about mentoring and coaching for succession?

Ms. Cox: I think that's...he's doing a great job of that.

Ms. Otsuka: That's beautiful. That's beautiful.

Ms. Cox: He's bringing people along, bringing them up.

Ms. Streufert: All right. So, Achieving Goals.

Ms. Cox: Okay.

Ms. Streufert: We're going through this real quick, which is good.

Ms. Otsuka: Would this be part of the, like, the wildfire WUI, and...

Ms. Streufert: I was thinking that was (inaudible).

Mr. DeGracia: Plantation camps.

Ms. Otsuka: Plantation camps, would this be...

Ms. Cox: I was thinking that might be (inaudible), but...

Ms. Otsuka: ...something that might be achieving the goals?

Ms. Streufert: I thought that was more Policy Development.

Ms. Cox: Yeah, I think that's more seven.

Ms. Otsuka: Okay.

Ms. Cox: But yes, he does a really good job of that. Let me see, Achieving Goals.

Ms. Otsuka: Produce a reasonable volume of work on schedule. This was a big one today.

Mr. DeGracia: We need witnesses. No, no.

Ms. Cox: Well even though seven focuses on policy, one of his goals that he told us was to update a lot of the policies. And he has achieved that.

Ms. Otsuka: That's beautiful.

Ms. Cox: He's done a really good job of that.

Ms. Streufert: Update policies.

Ms. Cox: Yeah.

Ms. Streufert: He has...

Ms. Cox: Yeah.

Ms. Streufert: He has indicated his intent and achieved it.

Ms. Cox: Yeah.

Ms. Streufert: Financial Management said we don't have any information. Okay.

Ms. Cox: We're done.

Ms. Streufert: Okay. So, let me go through this really quickly and add to this. Okay. Customer Service is five. He's outstanding and he's very respectful to everyone. Is that...anything else? Customer service is friendly, complete, accurate, and timely.

Ms. Cox: He's all of those.

Ms. Streufert: Would that, would you agree with all of those? He's accurate, friendly, timely and complete information.

Chair Ako: I would say accessible.

Ms. Streufert: Accessible.

Ms. Cox: I would say, yeah.

Ms. Streufert: Okay, so we have that he's accessible and he's outstanding, and he's very respectful. Is that perfect? Okay. All right, Planning and Organizing, we have a five. He comes to every meeting prepared, and his homework is always done before he gets here.

Ms. Cox: Good.

Ms. Streufert: Okay. Leadership. He leads by example. He's a respected leader on Kaua'i and in the nation. He motivates commission members and employees to do their best. Communication. He's effective in formal and informal situations. He does a good job getting thoughts across to his audience.

Ms. Cox: Good.

Ms. Streufert: I'm going through this very quickly.

Ms. Cox: Okay, (inaudible).

Ms. Streufert: Personnel Management. He does exceptional mentoring and coaching for succession and he's motivational. All of his employees seem to be happy and motivated. Achieving Goals, is indicated his intent to update policies and he has achieved them or he is achieving them. Policy Development, he's developed policies on plantation housing and wildfire mitigation. He is considered to be an expert in his field. And nothing for plantation managers or nothing for Financial Management. And we have, rather than the overall trend, is exceptional.

Ms. Cox: Yep.

Ms. Streufert: Okay. We're done.

Ms. Cox: We're done.

Ms. Streufert: All right. Is there another form for the (inaudible)...

Ms. Barzilai: You need a clean form?

Ms. Streufert: Yes, I do.

Ms. Barzilai: Lisa, do we have one more clean form?

Ms. Streufert: As long as there's nothing that...

Ms. Barzilai: Oh, nobody had written on theirs. Okay.

Ms. Streufert: Anything else you want to add, subtract or whatever for this, revise?

Ms. Barzilai: No, just the percentage.

Ms. Cox: No, sounds good.

Mr. DeGracia: I think we're good.

Ms. Barzilai: Hello. This is the Planning Commission. What are you looking for?

Unknown Male: There was a meeting for (inaudible).

Chair Ako: Oh, the Haleko Road.

Unknown Male: Haleko, yeah.

Chair Ako: You might want to check Planning, the Planning Office.

Unknown Male: Okay.

Ms. Cox: That's Frank (inaudible).

Chair Ako: Yeah. Ready?

Ms. Otsuka: Ready to call him in?

Ms. Cox: Yeah, let's call him.

Ms. Barzilai: Okay. I have a couple of items of business here that I need your input. Because this is the first time that we're doing this in open meeting, I checked with Human Resources on whether there were special instructions on how to distribute the plan, the evaluation form, and the comment from Human Resources is, if you look in the corner of the form where it says review dates December 2024 to December 2025, the suggestion is that you might want to strike that if you agree and insert July 1, 2024 to June 30, 2025, because your last review was held, I believe, in March. No, excuse me, in June, the review was held very late in the year. It wasn't held when it usually is, which is like January, February to review December to December. So, are you amenable to changing the review period instead of...it's more accurate to be instead of December to December to do July to June. So, perhaps Commission...

Ms. Streufert: But we're not in June yet.

Ms. Barzilai: Sorry.

Ms. Streufert: So, can it just go until...

Ms. Cox: June 2025?

Ms. Barzilai: It's always a year behind. It's a year behind. It's reviewing him for the previous year.

Ms. Streufert: Oh, oh.

Ms. Cox: Yeah.

Ms. Streufert: Okay.

Ms. Barzilai: Yes.

Ms. Streufert: What dates again? I'm sorry.

Ms. Barzilai: So, if you're inclined, you would strike December 2024 and that time period and insert a July 1, 2025 to June 30, 2024.

Ms. Cox: No, it's 2024 to 2025.

Ms. Barzilai: Sorry. Sorry about that, 2024 to June 30, 2025.

Ms. Otsuka: Yeah.

Ms. Barzilai: Sort of strange. It's a year delayed.

Ms. Cox: Yeah.

Ms. Streufert: Okay.

Ms. Barzilai: And the second thing I want to raise to you, is that at the last meeting, at the last evaluation, the Planning Director was approved for one incremental increase in his salary of 3.5%, effective July 1, 2025. At this time, you can make a decision whether you want to vote upon an additional 3.5 increase for him, effective July 1, 2026.

Ms. Otsuka: We have to do it today? Can we do it...

Ms. Oyama: Commissioner Otsuka.

Chair Ako: What was...

Ms. Barzilai: I...this will not come before you again for another year. So, July 1, 2026, would pass before you would have another opportunity to consider his evaluation, because it's always going to be now, around this time of year to consider him for the previous year. I know it's an odd set of dates.

Chair Ako: Laura, is he not at the max already and the salary schedule did not change?

Ms. Barzilai: So, I believe that the Salary Commission order allowed for department heads to be increased incrementally at 3.5% for three years, 2025, 26 and 27. So, at your last meeting, you approved a single increment for him for 2025. That's what I was told by Boards and Commissions, who learned that from, who passed that on to Human Resources yesterday. So, at this time, to be prudent, if you are inclined to give him another increase, you should vote upon it at this time. So, think about that for a minute, whether you're inclined to do that, it would be effective July 1, 2026.

Ms. Otsuka: Okay. And you said prior to this, other heads were approved 3.5% for three years, in increments.

Ms. Barzilai: Yes. The first one was approved for, the first one was approved effective July 1, 2025.

Ms. Otsuka: Okay.

Ms. Barzilai: And...

Ms. Otsuka: We changed the rules for the Planning Director and said just, we'll just agree to the one year instead of the three.

Ms. Barzilai: It was recommended by Human Resource that that it be done that way. So...

Ms. Otsuka: Oh okay.

Ms. Barzilai: Yeah. Human Resources preferred that it be done, you know performance based instead of saying, yeah let's give them the maximum now.

Ms. Otsuka: Okay.

Ms. Barzilai: So, I think, like I said, in order to be prudent, I would affirm right now whether you want to go ahead with the additional 3.5 salary increase effective July 1, 2026.

Mr. Ornellas: I'm agreeable.

Ms. Barzilai: Okay. Commissioner Cox, Vice Chair, has a question.

Ms. Cox: Well, I'm kind of, I'm agreeable in principle. I have a hard time doing this because it seems like it should be done within the context of looking at all the department heads and not only that, at the budget. So, I have trouble....

Ms. Barzilai: Let me explain.

Ms. Cox: Okay, good.

Ms. Barzilai: It was already approved by the Salary Commission. So, the Salary Commission does, that's what they do, they are a body like yourselves and they take all of...it's for all of the department heads, it's not only for the Planning Director. It's something that was decided uniformly. I believe that all appointed employees received an increase. So, you would be, because the Planning Director serves, at your request, at your pleasure, you are the people responsible for approving his salary increase.

Ms. Cox: Okay. And nothing has changed with the budget. Because I know there was a problem with losing federal money that actually we may have even had to lose some employees. So...

Ms. Barzilai: Okay.

Ms. Cox: ...it just feels odd to be making this in a (inaudible) decision.

Ms. Barzilai: So, we are...

Ms. Cox: It's not that I'm opposed.

Ms. Barzilai: ...after 4:30, but if we need to call Human Resources and get somebody to come in here and explain this, we can.

Ms. Cox: Oh, no.

Ms. Barzilai: Lisa can help me with that. Should we go ahead and call Jill Niitani, and have her come in?

Ms. Cox: No (inaudible).

Ms. Barzilai: Would you prefer that? Is that...

Mr. Ornellas: Well, I think the last time we had the option of doing a three-year salary increase incrementally, but decided on...

Ms. Cox: Do it one year at a time.

Mr. Ornellas: ...council that we do incremental.

Ms. Cox: So, now this is just our second.

Mr. Ornellas: So, I mean...

Ms. Cox: Yeah.

Mr. Ornellas: Basically, basically...

Ms. Cox: I don't think I need to have someone come in.

Ms. Barzilai: Okay.

Mr. Ornellas: Basically...

Chair Ako: It's in the budget already, right.

Mr. Ornellas: Yeah, it's been pre-approved.

Ms. Barzilai: I believe so.

Ms. Cox: Okay.

Chair Ako: Yeah.

Mr. Ornellas: It's just a matter of if we hold this or will we awarded?

Chair Ako: Yeah. I think we're good.

Ms. Barzilai: Ellen Ching will come and make a couple of comments.

Ms. Cox: Before we do this or...because.

Ms. Barzilai: She's apparently on her way. I guess she was listening.

Ms. Cox: Oh, sorry, guys, I didn't mean to delay this.

Ms. Otsuka: No, Lisa's too efficient. That's all it is. She's very efficient.

Ms. Barzilai: I'm sure that Ellen was listening, so she's on her way to better explain.

Ms. Cox: Is there anything else that you need you tell us, so that we're (inaudible).

Ms. Barzilai: No, nothing else administrative at this time?

Ms. Cox: Okay.

Ms. Barzilai: Just changing the period of review and approving the next salary increase, if you're inclined.

Ms. Cox: I'm really sorry.

Ms. Otsuka: No.

Chair Ako: You're all good.

Ms. Otsuka: We're going to learn (inaudible) right now.

Ms. Barzilai: I think those are very good questions.

Chair Ako: See, you pushed us after 4:30, we now qualify for dinner.

Ms. Cox: Right?

Ms. Barzilai: I can arrange that.

Ms. Cox: What we really, unfortunately, qualify for is rush hour.

Chair Ako: Rush hour traffic, now.

Ms. Streufert: We're past rush hour.

Ms. Cox: No, we're still in it.

Ms. Barzilai: Well, at least we have Lisa's cake to take in the car.

Ms. Otsuka: Yeah.

Ms. Barzilai: Anything else about the form? Any comments you'd like to put on the form?
Recommended improvements of the form?

Chair Ako: No, but thank you. Glenda.

Ms. Cox: Yes. Thank you, Glenda.

Ms. Streufert: Okay. And I'm taking out recommendations for improvement. I'm just putting in their comments.

Chair Ako: Yeah.

Ms. Streufert: Because we're not doing any recommendations for improvement.

Ms. Cox: Yeah. Good.

Ms. Streufert: Did he do the form-based housing this year?

Chair Ako: Based housing?

Ms. Streufert: Yeah.

Chair Ako: I don't know.

Ms. Cox: They did the...

Ms. Streufert: Was that last year?

Ms. Cox: I am not sure. Well, remember we're actually doing last year.

Chair Ako: Form-based? Ellen Ching.

Ms. Cox: Hi Ellen.

Chair Ako: Hey, thanks for coming. Thanks for coming.

Boards and Commissions Administrator, Ellen Ching: Ellen Ching, Boards and Commissions Administrator.

Ms. Oyama: Administrator Ching, microphone.

Ms. Cox: You have to turn microphone...

Ms. Ching: Sorry, cannot follow instructions. Okay. Ellen Ching, Boards and Commissions Administrator. Next time I realize one of the most important qualifications for the Planning Commission is to have a healthy kidney. You guys ran long today. Thank you very, very much for your service and Happy New Year. A couple of things with the Salary Commission. So, the Salary Commission passed a salary resolution, and in general, in broad strokes it was 3.5% for three years. And the three years, so the Salary Commission charge is to set maximum salaries. So, you can adopt that maximum salary, but you cannot go above it. You can go below it, but you can't go above it. And typically, what the other commissions do that, that are in charge with hiring, supervising their department heads, they typically do their evaluation in August or September because the department heads want to be able to give them a report that covers the whole year. So, then they do their evaluation, and when they finish their evaluation, that's when they take up a salary increase. And for a lot of the departments, it makes sense because our county fiscal year is based on July 1st to June 30th. So, if you don't have the resources, you know,

budgetary resources, sometimes you can't cut, you know, accomplish your goals. So, that's why most of the other commissioners do their evaluation at the end of the fiscal year and then take up the evaluation. So, just to give you some context about that. Any questions that I, that you may have, I'm happy to respond to.

Ms. Cox: I think I'm speaking for the whole group, that we'd be happy to do these evaluations whenever it makes the most sense. We do them when we're handed them.

Ms. Ching: Gotcha. It's really again, it's really up to you.

Ms. Otsuka: Okay. The 3.5 annually, so, that means 25 to 26, he gets, a person would get 3.5%, year 26 to 27, another 3.5%. It's not that 3.5 is divided in three years, correct. It's 3.5 per year?

Ms. Ching: So, 3.5%, and then based on that salary and last year you approved that first increase, so, now it's 153,936, and then a 3.5% on top of that, and so to be technically clear, that county went on an automated timesheet and apparently if it's not a whole number, they would have to do checks manually. So, it's a little bit more than 3.5%, but not, because it has to be a whole number on 24 pay periods. So, right now you're at 153,936, the next, if you vote for an increase effective July 1st, 2026, then it would be 159,336. So, about 3000...6000 more.

Ms. Streufert: So, technically...

Ms. Oyama: Commissioner Streufert.

Ms. Streufert: ...if we put this as July 1, 2024, to June 30, 2025, is that what we're doing?

Ms. Ching: You're kind of...you did the increase and you didn't do your evaluation. So, you're kind of catching up.

Ms. Streufert: Okay. So, this is at, these dates are accurate?

Ms. Ching: You can, when was the last date for their evaluation?

Ms. Oyama: March of last year.

Ms. Ching: March of last year. So, that was 2020...

Ms. Streufert: 5.

Ms. Cox: 5.

Ms. Ching: 5. No, 2020, yeah, 2025. So, you're actually ahead of the, you're ahead of the game. And so...

Ms. Streufert: So, this will overlap it because this is from July 2024 to June 2025. So, there's only two months in there.

Ms. Ching: Yeah.

Ms. Streufert: Okay.

Chair Ako: So, if we did an annual evaluation, our evaluation will now be from July to June?

Ms. Streufert: July 1, 2025, to June 30, 2026. So, we're halfway into the year.

Ms. Ching: Correct.

Chair Ako: So, we wouldn't be doing it from January to December then? Or from...

Ms. Ching: Yeah. You guys are doing on calendar year. And...

Chair Ako: Well, actually we got messed up, I think, Ellen.

Ms. Ching: Yeah.

Chair Ako: I think we did it in December and then thinking we were done and then we lost the evaluation. So, I think the evaluation period then went over to March.

Ms. Ching: Yeah. But I mean, to be fair, each commission can decide, you know, what period they want to...the other commission's just tied it to the fiscal year because the budget is tied to the fiscal year.

Chair Ako: Yeah, yeah. And is that...

Ms. Ching: Versus a calendar.

Chair Ako: Yeah.

Ms. Otsuka: I think we should be consistent with the rest of the county and keep it fiscal.

Ms. Cox: I agree.

Mr. DeGracia: Is it the Chair's discretion?

Chair Ako: I like that now. I think I like that term now.

Ms. Otsuka: Your honor.

Chair Ako: Well, if this one is going to go from July to June, then I think we're back on the fiscal year, right. We're good.

Ms. Otsuka: But it's July 2024.

Ms. Streufert: 2024.

Chair Ako: Yeah.

Ms. Streufert: To June 2025.

Ms. Otsuka: Yeah.

Ms. Streufert: Six months ago.

Chair Ako: Okay, so we can stay until 6:00 to do another one (inaudible).

Ms. Otsuka: So, at what point? At what point? Okay. So, would there be another review...

Ms. Streufert: In June.

Ms. Otsuka: ...form to fill out in June?

Chair Ako: I think the question is, can he get an increase without an evaluation?

Ms. Otsuka: Yeah, I would think so.

Ms. Ching: Yes, you know, again it's at your discretion.

Chair Ako: Yeah.

Ms. Cox: Yes.

Ms. Ching: Yes, he can.

Chair Ako: Okay, so...

Ms. Streufert: Here's a question. Does he get one in June?

Ms. Ching: He already got his first.

Ms. Streufert: Okay.

Ms. Ching: You guys voted to get his July 1st, 2025 increase. You did vote that. So, it went through. And so, the commission has the full authority, okay. So, you can decide what is the evaluation period, you can decide when you want to increase his salary, providing that a salary resolution has been adopted, which it has. You can decide, you know, so other commissions, they have all moved to fiscal year. So, the fiscal year ends and then they do, so after June 30th, if they the evaluation, after they do their evaluation, then they, when they completed the evaluation, then they take up the issue of an increase. That's what the other commissions have done. But you guys have the discretion to do, you know, adopt that or move to something else. It's really all under your discretion to do that. They have also, because their evaluation has come in, the earliest that the evaluation was done this year in August and then, you know, a couple months after. So, those commissions have adopted an increase and made it retroactive to July 1st. You have the ability to do that. So again, you have the full discretion and flexibility.

Ms. Otsuka: Because right now the, his increase for the Planning Commission is working out as fiscal, right that the problem or the concern here is trying to catch up with our review. So, is there a way these three and the three new commissioners can do another review this year to catch up? So, next...

Ms. Ching: So, I will tell you what some, what a lot of, in general a lot of what the other commissions have done when new commissioners come on, the new commissioners have said that they don't feel comfortable doing an evaluation because they've only worked with the person maybe one month or two months. And so, they they've declined to take part in the evaluation. So, the other commissioners that are there will do the evaluation and then the whole commission will determine whether they're going to adopt that evaluation or not.

Ms. Otsuka: So again, would they be able to do another one this year to catch up with the fiscal period?

Ms. Ching: If you decide that you want to shift to fiscal, then you'll get the form in probably July.

Ms. Otsuka: Yeah.

Ms. Ching: Yeah.

Chair Ako: All that means is July we do another one right?

Ms. Ching: Yeah.

Ms. Otsuka: Yeah. And then you can catch up with the review and his pay increase.

Chair Ako: And then we'll be on a fiscal year.

Ms. Ching: Yeah.

Ms. Otsuka: Does that work for you?

Ms. Ching: Just save your notes.

Ms. Otsuka: If it makes sense to be, it makes sense to be like, uniform.

Ms. Cox: Yes, I agree.

Ms. Otsuka: Thank you. Instead of, you know, reviewed then (inaudible).

Mr. DeGracia: Thank you, Lori, for organizing it even though this half of the canoe is leaving.

Ms. Cox: And you're leaving. But we're very happy that you organized this.

Ms. Otsuka: I'm all about fiscal because I want, I want the uniformity is important for...you don't technically there will be times you don't even have to communicate if everything is uniform, you just, there will be no questions because you already know the answer.

Ms. Ching: Well, let me. For instance, let me give you an example. There was a really good robust discussion about policy and decision making and that was one of the director's goals, updating policies, you know, related to the budget, if he doesn't have the staff and he doesn't

have enough time and he, and so therefore he fell behind, I mean, you know, that's why most of the commissioners linked the evaluation with the budget.

Ms. Cox: Makes total sense.

Ms. Ching: Because it can impact, you know, whether they are able to produce and the quality and, you know, and, and their performance, I mean, everybody, you know, you work in a, you worked in a company that budget matters.

Chair Ako: I am good.

Ms. Cox: I'm good too.

Ms. Streufert: Aye.

Ms. Otsuka: Aye.

Ms. Cox: Aye.

Chair Ako: (Inaudible).

Ms. Otsuka: The 3.5 increase.

Ms. Cox: 3.5.

Chair Ako: We still...

Mr. DeGracia: Do we need a motion?

Chair Ako: Would you like to invite Mr. Hull...

Ms. Otsuka: Do we need a motion?

Ms. Barzilai: Yes, please.

Ms. Streufert: Rather than my doing this (inaudible).

Ms. Otsuka: Motion to approve...

Ms. Barzilai: It would be motion to approve...

Ms. Otsuka: ...the Planning Director's pay increase by 3.5% starting July 1, 2026...

Ms. Ching: Can I...

Ms. Otsuka: ...fiscal year.

Ms. Ching: ...ask for a amendment to the motion because it's not exactly 3.5.

Ms. Otsuka: Oh, okay.

Ms. Ching: So, if you could say 159,336, effective July 1st, 2025.

Ms. Otsuka: I thought was 3.5...

Ms. Streufert: 2025.

Ms. Otsuka: ...every year.

Ms. Ching: Yes. But it's not exactly because they have to go to whole numbers for 25, 24 pay periods.

Ms. Otsuka: Right...

Ms. Barzilai: So, it becomes slightly more.

Ms. Cox: So, this is the amount, not the percentage, right?

Ms. Ching: Yeah.

Ms. Cox: You just gave us the amount.

Ms. Ching: It's not exactly the 3.5%, they had to round, we had to round up.

Ms. Otsuka: So now...

Ms. Streufert: But they've already, he has already received it. He's already, so...

Ms. Ching: No, he cannot receive any increase unless you guys approve it.

Ms. Streufert: So, he has not had an increase since July of this year, I mean of 2025?

Ms. Ching: He got his July 1st, 2025 increase...

Ms. Otsuka: Yeah.

Ms. Streufert: Okay.

Ms. Cox: So, that...

Ms. Otsuka: Till June.

Ms. Ching: ...which was first increase that you could approve.

Ms. Cox: which would be, the next one would be...

Ms. Ching: So, it's...

Ms. Cox: ...the next...26.

Ms. Ching: ...this is for 2026.

Ms. Cox: Right.

Ms. Streufert: Okay, I got it.

Ms. Otsuka: Till 2027.

Ms. Cox: No, (inaudible).

Ms. Otsuka: 2026 to 2027?

Ms. Cox: Oh, right, yes.

Ms. Ching: Okay. Let me say this. Now, I, my recommendation to the commission, if you're going to adopt an increase is to state the increase, not the percentage, and state the effective date. Do not put an end date because if your evaluation is late, then we don't know what to pay him if you go past the end date.

Ms. Cox: Okay.

Ms. Ching: Okay?

Chair Ako: I'm sorry, Ellen. I was in la la land over here. The number you gave was the dollar amount?

Ms. Otsuka: Yeah. I'm going to give you the dollar amount.

Ms. Ching: Yes, yes.

Chair Ako: Okay.

Ms. Cox: Okay, so we have a new motion.

Ms. Ching: Yes.

Ms. Barzilai: With an effective date.

Ms. Otsuka: Motion to approve the Planning, Planning Commission Director's pay increase starting July 1, 2026, in the amount of \$159,336.

Mr. DeGracia: Second.

Chair Ako: Okay. Got a motion, we've got a second. We're having no more discussions. Okay. Anything else? No, we're good.

Ms. Barzilai: I can take a roll call on that.

Chair Ako: Okay. If we can take a roll call vote, please.

Ms. Barzilai: So, that it's in the record. Motion for increase of Planning Director's salary. Vice Chair Cox?

Ms. Cox: Aye.

Ms. Barzilai: I'm just trying to do it from memory, in alphabetical order. Who's next? Commissioner DeGracia?

Mr. DeGracia: Aye.

Ms. Barzilai: Commissioner Otsuka?

Ms. Otsuka: Ornellas.

Ms. Cox: No, Ornellas.

Ms. Barzilai: Commissioner Ornellas?

Ms. Ornellas: Aye.

Ms. Barzilai: Commissioner Otsuka?

Ms. Otsuka: Aye.

Ms. Barzilai: Commissioner Streufert?

Ms. Streufert: Aye.

Ms. Barzilai: Chair Ako?

Chair Ako: Aye.

Ms. Barzilai: Thank you very much. Motion carries. 6:0. Okay.

Ms. Otsuka: Thank you for your patience.

Ms. Cox: Yes, thank you.

Mr. DeGracia: Thank you, Ellen.

Ms. Barzilai: Thank you.

Ms. Ching: Thank you.

Ms. Barzilai: Thank you to Administrator Ching.

Ms. Cox: (Inaudible) important decision (inaudible), is that since there are only going to be three commissioners, starting in March, we're no longer having meetings since there will be no quorum.

Ms. Ching: Oh. Well, You, me...I strongly believe that you will not, you will be meeting in March or in April.

Ms. Barzilai: That's a cryptic message.

Ms. Cox: (Inaudible).

Ms. Ching: Yes.

Ms. Barzilai: At this time, is there anything else in relation to the evaluation?

Ms. Otsuka: Do we need to invite Director Hull in?

Ms. Barzilai: Yes, if you'd like to go over the evaluation with...

Ms. Streufert: Before we do that, I've given it back to Chairman...

Ms. Oyama: Commissioner Streufert.

Ms. Ching: Mic.

Ms. Streufert: ...Ako because I think it...

Ms. Ching: Mic.

Ms. Streufert: ...come from him.

Ms. Barzilai: Your microphone, Commissioner Streufert.

Ms. Streufert: I've given the, our combined evaluation form to Chairman Ako because I believe it is more appropriate for him to give it to the, to the department chair.

Ms. Otsuka: I agree.

Chair Ako: I would have no problem if everybody wanted to sign it.

Mr. DeGracia: It's in good hands and will not get lost.

Ms. Cox: Right.

Chair Ako: Well...that I don't know.

Ms. Cox: Let's get him back in here, he probably wants to go home. As do we all.

Ms. Otsuka: Your microphone.

Ms. Cox: It's on and I meant it.

Ms. Otsuka: (Inaudible) meant to turn it off.

Ms. Cox: I know. I'm perfectly willing to have that on. It's okay. We're ready to have him come in.

Mr. DeGracia: Yeah. So, we're inviting...

Ms. Cox: It's past his time to leave.

Chair Ako: And again, thanks guys for staying so late. Especially our staff over here.

Ms. Otsuka: Maybe they get paid overtime.

Chair Ako: They do.

Mr. DeGracia: Chair Ako, have we invited the director back in?

Chair Ako: Yeah. In accordance with our Unit 4 contract, yes.

Chair Ako: Very good.

Ms. Otsuka: I move for someone to fix that light before the next meeting. Welcome, Director Hull.

Chair Ako: Welcome back. In front of you, you have the evaluations that we have just gone through. I don't know if you want to review that. And if you have, if you have any questions or comments for us, I think for us, we're pretty clear.

Ms. Otsuka: I thought we supposed to read it.

Chair Ako: Huh?

Ms. Otsuka: We supposed to read it, right?

Chair Ako: I don't know. Don't we make the rules over here.

Ms. Otsuka: Why, don't you read it to him.

(Inaudible talking from Commissioners, mics not on)

Chair Ako: Yeah. You know, and I think when you look at it, the ratings that we have, we went right down the line, we went down fives. In my interpretation in my language using athletics, you know, I just think that you're just a generational baseball player or generational player, one that comes around in every generation. I think you're a special guy and we should be just so, so thankful and grateful. Whoever lives on this island, to be able to have somebody like you with us. And I just wanted to say thank you for, you know, your efforts that you put forward, the way you treat people out there, the way you treat us, the way you treat staff. Thank you very much.

Ms. Otsuka: Thank you very much.

Mr. Hull: I appreciate that, Chair and members of the Commission, it always has been and continues to be an honor to serve in this position. Generally, at this point, I kind of go over what's on the horizon, being that you folks have been here for, I don't know, 89 hours. I think I'm going to spare you folks that pain. I can speak to you guys, perhaps individually, about what's on the horizon for the remaining 11 months of this administration in my position here. But I really appreciate I'll go through this with the Chair personally and get back to you folks if I have any other questions. But I really appreciate the sentiment and the ability to kind of navigate this space with you folks through troubled and troubled waters, but I really appreciate it.

Ms. Streufert: Can you very quickly go through some of the things just by itemizing what things you're looking at for the next year?

Mr. Hull: Sure, Commissioner. You know, as we close the administration out, a lot of it is just closing things out. There's still an unleft, unchecked approach to agricultural lands and how an overarching policy can potentially stave off some of the speculative forces that have pervaded that district in particular. And we're working closely with the mayor's office and then other projects just, you know, making sure, quite honestly, from a policy standpoint, there's a few moving parts like this agriculture bill. But for the most part, most of our policies are being sewn up like Alicia just had with you folks, the Shoreline Setback Ordinance. We like to sew that up. Jodi's working on the Special Management Area Rules and Regulations, which there's definitely some impacts that we can help further and perpetuate coastal accesses through those rules. From, and it might sound a little boring, but from a financial and budgetary standpoint, trying to leave the office in, you know, the best sound ability to carry on, we certainly are facing some financial issues with the budgetary cuts to the Coastal Zone Management Program, and how we work through the budget system to make sure that we're able to continue, not just as a whole, but in particular on our coastal endeavors and regulatory framework, is key to both Jodi and I as we navigate these last 11 months. And, you know, there's other areas from a land use perspective that just not going to have time in the next 11 months. But insofar as we can create stub outs and make it viable for the next administration, is our intention. Two particular areas, and I'm meeting with Chip Fletcher and his team in a couple of weeks to go over further approaches with the sea level rise data and the modeling that they have. So, making sure we're coastal resilient for sea level rise, beyond what we've already stepped into, because there's new models being adjusted, and those models need to be accounted in to the regulatory framework. But we won't have that modeling done by December 5th of 2026. But to create, you know, work with Chip folks to make stub outs for the next administration. I can say also that, you know, I didn't think in my time we would have the data for flood, flood modeling from precipitation and compound flood modeling assessments. That is probably the most detrimental coastal, climate hazard we're facing and we've actually worked with a few teams and working with our floodplain manager to get some of the data that's out there. That doesn't mean it's going to be a regulatory framework. We just got to get used to that data and understand what it is. But helping from a climate resiliency standpoint and how the built environment handles water beyond sea level rise is another thing, we're trying to create that stub out. And then lastly, and this, I can't, I can't explain how much after getting into it with Elizabeth Pickett and Hawai'i Wildfire Management Organization post Lahaina, how much wildfire is on our minds and the fact that there are very specific strategies, nominal in cost that can make, if you look at sea level rise and flooding, those programs essentially are to get the built environment, to learn to live with water. And it might sound weird, it might sound strange, but there is fire science that you can adjust the built environment to live with fire. We will not

have all of the pieces together in the next 11 months, but we certainly are striving over the next 11 months on how we deal with the existing built environment and as well as new building codes, so that when the next administration comes in, we're able to hand over a program that can pursue what I hope to be one of the most robust approaches to wildfire in the country. Again, I wish we could get all that data by summer and really start getting into the nitty gritty of it, but we're just not. And so that to a certain degree from a policy standpoint, is where I'm looking to create these stub outs in the transition. But yeah, there's been so much work done to free up the regulatory framework and allow for housing as far as we can from a zoning perspective. And now just making sure we calibrate to make sure as much as we freed up those regulatory standards to make it easier to develop housing, especially in the urban core, to make sure we're able to address the climate resiliency aspects. And what's becoming front and center is the cost of insurance and trying to work, it might seem strange that the Planning Department is working with the insurance industry, but trying to work with the insurance industry to signal some of these developments as we go through these processes and strategies are safe to insure because the cost of living now is exorbitant in Hawai'i, and the exponential increase in insurance premiums tied to climate resiliency is vital. And then so, we're really trying to figure out that space. Sorry, I'm kind of rambling, but those are, those are the kind of three kind of stub outs that we're working on. And I hope to have not a final product, but a transition forward upon the departure of this administration.

Ms. Cox: That's great.

Ms. Streufert: I want to tell you that one of the things that I think we all noticed is that you are very good at succession planning and letting some of the younger people present and have some presence here. We really appreciate that. That's really good, your coaching and mentoring is really amazing. It's a good leadership technique.

Mr. Hull: It's a wonderful team. I wouldn't put them up there if they weren't qualified for it, but they are. They are absolutely qualified for the roles that we need to take on.

Chair Ako: I know I said this before, but you know, I think you're one of the greatest secrets that we have on the island, you know, for the work that you do. And somehow, I think I just felt that we just need to somehow let the island know about the work that you and your, that you and your staff do. And yet the response that I get back is, no, we don't need to do that because whenever there's a conference or anything they know when Kaua'i walks in the room. And I think that's got to be one of the best compliments that you can get from your colleagues.

Mr. Hull: Appreciate that, Chair.

Chair Ako: Good job. Okay. With that, we're ready to go home. Ellen Ching, would you like to...

ANNOUNCEMENTS

Ms. Otsuka: I just wanted to, on the record being the announcement says future meeting January 27th.

Mr. Hull: Oh, I, I meant to correct that, my apologies.

Chair Ako: Okay.

Ms. Otsuka: So, for the record the next meeting will be February...what was it? 20...

Ms. Cox: 20...

Mr. Hull: Tentatively 24th, tentatively.

Chair Ako: 24th. Yeah.

Ms. Otsuka: But no January.

Mr. Hull: Yeah.

Chair Ako: Okay.

ADJOURNMENT

Ms. Barzilai: Motion to adjourn, Chair?

Chair Ako: Okay.

Ms. Cox: Motion to adjourn.

Chair Ako: Motion to adjourn.

Ms. Otsuka: Second.

Chair Ako: We got a second. All those in favor say aye. Aye (unanimous voice vote). All those opposed. This meeting is adjourned at 5:08. 6:0.

Chair Ako adjourned the meeting at 5:08 p.m.

Respectfully submitted by:

Lisa Oyama

Lisa Oyama,
Commission Support Clerk

(X) Approved as circulated (March 10, 2026, meeting).

() Approved as amended. See minutes of _____ meeting.